2572.

SUPREME COURT OF THE UNITED STATES.

No. 219.

JOHN DEACON, APPELLANT,

vs.

CHARLES OLIVER AND ROBERT M. GIBBS, EXECUTORS OF ROBERT OLIVER, DECEASED.

ON APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

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[GIDEON, Print.

UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States, for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in April, in the year of our Lord one thousand eight hundred and fifty-one.

Present, the honorable Roger B. Taney, chief justice of the Supreme Court of the United States; U. S. Heath, judge of Maryland district; Z. Collins Lee, esquire, attorney; Thomas H. Kent, (of Jas.,) esquire, marshal; Thomas Spicer, clerk.

Among other were the following proceedings, to wit:

JOHN DEACON
vs.
CHARLES OLIVER, and Robert M. Gibbs, executors of Robert Oliver.

Be it remembered, that heretofore, to wit, on the sixth day of November, in the year of our Lord one thousand eight hundred and fifty, the said John Deacon, by Benjamin C. Howard and Henry Winter Davis, his solicitors, filed in the circuit court here his bill of complaint and exhibits against Charles Oliver and Robert M. Gibbs, surviving executors of the last will and testament of Robert Oliver, deceased, and against John Glenn and David M. Perine, trustees of the Mexican Company of Baltimore, in the words and of the tenor following, to wit:

Bill of complaint.

To the judges of the circuit court of the United States, for the district of Maryland.

John Deacon, a subject of the Queen of the United Kingdom of Great Britain and Ireland, and sole survivor of Alexander Baring, Henry Baring, Thomas Nixon, Swinton C. Holland, and John Deacon, trading under the firm of Baring, Brothers and Company, brings this his bill of complaint against Charles Oliver and Robert M. Gibbs, surviving executors of Robert Oliver, deceased, and David M. Perine and John Glenn, trustees, as herein more particularly set forth, all of which said defendants are citizens of the State of Maryland.

And thereupon your orator complains and says, that heretofore, to wit, at the May term of the circuit court of the United States, for the district of Maryland for 1821, Alexander Baring, Henry Baring, John Deacon, Thomas Nixon, and Swinton C. Holland, trading under the firm of Baring, Brothers and Company, recovered by the judgment of the said court against one Lyde Goodwin, the sum of sixty thousand dollars damages, sustained by reason of the non-performance of certain

promises of the said Lyde Goodwin, as also $14.75 costs; to be released, however, on the payment of forty-one thousand and five dollars and fifty-eight cents, with interest thereon from the 7th of November, 1817, till paid, and costs.

That on the 25th day of October, 1826, the plaintiffs sued out an attachment on said judgment, against the goods and chattels, lands and tenements, and credits of said Lyde Goodwin, which attachment was delivered to the marshal of the district of Maryland, and by him returned as follows:

On the 28th of October, 1826, laid in the hands of Robert Oliver, a debtor of said Lyde Goodwin, in the presence of John Thomas, and William Vancoyck, amount unknown.

That at the December term of said court, 1826, said Robert Oliver appeared by attorney to the said attachment.

That at the May term of said court for 1827, the plaintiffs exhibited certain interrogatories touching the goods, chattels, and credits of said Goodwin, in the hands of the said Robert Oliver, the garnishee attached, which interrogatories the said Robert Oliver was duly ordered by the said court to answer; to which interrogatories the said Robert Oliver filed his answer at the December term of said court for 1827; all which will more fully appear from a short copy of the said judgment, and of the writs of fieri facias thereupon, continued until April, 1830, herewith exhibited, No. 1.

And a transcript of said attachment and the proceedings thereupon, No. 2, which are prayed to be taken as part of this his bill. That to the first interrogatory, to wit: "Had you at the time of laying the attachment in the above cause, in your hands, or at any other time and when, any funds, evidences of debt, stocks, certificates of stock belonging to Lyde Goodwin, or any acknowledgment of debt due by the Government of Mexico to the said Lyde Goodwin? The said Oliver responded: "That he had not at the time of laying the attachment in his hands, nor at any other time any funds, evidences of debt, stocks, or certificates of stocks belonging to Lyde Goodwin; but that he had a power of attorney signed by said Goodwin in conjunction with several other persons, claimants of a debt alleged to be owing by the Mexican Government, and authorizing him to claim and receive the same for the benefit of said Goodwin's assignees and others.

To the second interrogatory, to wit: "Did not said Goodwin transfer to you some certificate of stock or evidence of debt due by the said Mexican Government to Goodwin, or some document of that character, and when did such transfer take place?"

He answered: "That the said Goodwin did not transfer to him any certificates of stock, or evidences of debt, due by the Mexican Government, or documents of that character, unless the before mentioned power of attorney may be called one."

To the third interrogatory, to wit: "Had you not a claim against said Goodwin, secured by a transfer or pledge of some certificate of stock or document of a public character, showing that Goodwin was entitled to

receive some funds from the Mexican Government? If so, what was the amount of your claim so secured, and what was the security; was or was not the balance or remaining credit under your control at the time of laying the attachment? State particularly how your claim was secured.

He responded: "That he had and still has a large claim against said Goodwin for money lent him from time to time that he is not secured for this debt, and never has been secured by a transfer or pledge of some certificate of stock or document of a public character, showing that Goodwin was entitled to receive some funds from the Mexican Government, unless aforesaid power of attorney shall be deemed such; but which he does not admit it to be."

To the fourth interrogatory, to wit: "Do you know any other matter or thing that may be of advantage to the plaintiffs in the above cause; if so, state it as fully as if you were particularly interrogated thereto."

He answered: That he knows nothing; that the said Lyde Goodwin had been, for many years before the rendition of said judgment, utterly insolvent, and that at the time of suing out the above attachment he had no visible property or estate liable to execution, nor any property of any description known to the plaintiffs in said judgment, or to either of them, or to their attorney or agent; and that said Lyde Goodwin continued so insolvent till his death, in ; but said plaintiffs had been informed that said Goodwin had some interest in some claim on the Mexican government, which had been transferred to said Robert Oliver, deceased, as security for some debt due to him from Goodwin; but the amount or nature, whether of the claim on the Mexican Government, or of the debt to Oliver, they knew not, and their whole information only sufficient to induce them to prosecute the said attachment in the hope of getting some portion of said judgment; and that upon the filing of the said answers to their interrogatories by said Oliver, the plaintiffs in said judgment, confiding in their supposed truth and fairness, and in the candor of said garnishee, Robert Oliver, in disclosing fully all his knowledge touching the matters in the interrogatories, supposed that they had been misinformed as to the said Lyde Goodwin's having any sort of interest in the said claims upon the Mexican Government, and took no further active steps in the prosecution of said attachment, but continued the attachment on the docket till December term, 1828, when Robert Oliver, being anxious to get rid of its lien, and keeping plaintiffs under the delusive belief that his answers were true, induced plaintiffs to discontinue the attachment by allowing it to be done without costs; and they being deceived and destitute of proofs, the attachment was entered by consent at that term; discontinued without costs, 10th January, 1829, and said entry was occasioned and induced solely by the misrepresentations of said Robert Oliver, that he had no claims of Goodwin in his hands liable to said attachment.

Your orator now charges that the answers of the said Robert Oliver to the said several interrogatories, under said attachment, are fraudu-

lent and evasive, and suppress material facts and information within the scope of said interrogatories, and within the knowledge of the said Robert Oliver at the date of his answers thereto, and touching claims of the said Lyde Goodwin against the Mexican Government and others, held by the said Robert Oliver, as assignee of said Lyde Goodwin, by way of mortgage, or as security for certain money due from said Lyde Goodwin to said Robert Oliver, in which claims said Lyde retained an interest, subject to the said debt due to said Robert Oliver, which the said Robert ought to have included in, and disclosed in, his answers to said interrogation.

That such suppression of facts and such evasions were made with the intent to defraud your orator and the other plaintiffs out of the fruits of the said attachment.

That such purpose was to be accomplished by inducing the said plaintiffs to suppose that said Robert Oliver had no claims of said Lyde Goodwin in his hands which could be subjected to the satisfaction of said debt under said attachment, and thus to procure its discontinuance and a release of the claims held by said Oliver from the lien of said attachment.

That said Lyde Goodwin combined with said Robert Oliver in the above attempt to release said claims from said attachment, and shortly after said entry of discontinuance, assigned the same absolutely to said Robert Oliver.

And your orator avers, that neither of the said plaintiffs, nor their attorney, ever had any knowledge that the said Robert Oliver held, at the date of said answers, any claim, or chose in action, against the Mexican Government, or any person, wherein the said Lyde Goodwin had any interest, or their attorney any reason to believe that the said answers to said interrogatories were evasive and fraudulent; and that said Robert Oliver had not fairly and fully disclosed all that he knew relative to the claims aforesaid in said answers; nor had they any notice, or any reason to suppose, that the said Oliver had concealed the fact that [he] claimed and held control of said Lyde Goodwin's claims, under and by virtue of an assignment to him, by way of security merely, for a debt to him, till the month of , in the year 1850, when the notice and information upon the above points, hereinafter to be detailed, was accidentally discovered and *and* received by their attorney, Benjamin C. Howard, while examining, in the performance of his duty, as reporter of the Supreme Court, the record in the case of George M. Gill, permanent trustee for the creditors of said Lyde Goodwin and others, against Robert Oliver's executors, and John Glenn and David M. Perine, trustees for the claimants of the funds of the Mexican Company of Baltimore.

Your orator avers, that the laying of said attachment, and at the date of said answers, Robert Oliver held, as assignee of said Lyde Goodwin, by way of security for a debt due to said Oliver, the claim of said Lyde Goodwin, as a member of the Mexican company of Baltimore, against the Mexican Government, for goods and mer-

chandise, and supplies furnished by said company for the use of said government, in the surplus proceeds whereof said Goodwin retained an interest; and that said Oliver also then held in like manner a claim of said Lyde Goodwin upon one Louis Merwin, arising out of a consignment of a cargo to said Louis Mervin; and that said Robert Oliver, as agent of said Goodwin, under the power of attorney aforesaid, held the control of said Goodwin's claim to five per cent. commission upon the amount which might be recovered upon said claim of the Mexican Company of Baltimore against the Mexican Government, which was included also in said assignment; and that said Robert Oliver well knew, at the date of the answers aforesaid, that the said Lyde Goodwin had and held an interest in the said several claims, subject to the debt of said Robert Oliver, due from said Lyde Goodwin, which debt was far below in amount what was claimed to be due and owing to said Lyde Goodwin, as a member of said Mexican Company of Baltimore; and the surplus of all said claims, your orator avers, was bound by said attachment. The following statement will exhibit the nature of the discovery made of the facts on which the above charges repose.

On the 11th January, 1825, said Lyde Goodwin, having previously had an interview with Robert Oliver, about assigning his claims as a member of the *of the* Mexican company, addressed said Oliver a letter, in which, after explaining the nature of his claim on the Mexican Government, and its acknowledgment by that government, and stating it to amount to $20,000, and that the presence of an U. S. minister alone was wanted to insure its speedy payment, he proceeds to say: "My object in proposing to assign to you my interest therein is, first, to secure to you the sum I already owe you; and, secondly, to obtain barely the means of support for the present. I am at this moment absolutely destitute of many indispensable articles of family requirements, and owe a few hundred dollars, the demands for which are so pressing on me as to make my office hateful and life itself a burthen. If you think there is a reasonable prospect of recovering this money, I hope and believe you will accede to my proposition; the additional sum that I would require shall not exceed two thousand dollars. I feel confident that the business is now in such a train that, under the auspices of our minister to that country, it will be finally adjusted before the close of this year. I am, dear sir, most faithfully your ob't serv't,

LYDE GOODWIN."

A full copy of which letter is herewith exhibited, No. 3. See printed record, p. 167, 168.

That on the 15th of February, 1825, said Robert Oliver drew a check in favor of said Lyde Goodwin, or bearer, for $500, for which said Lyde Goodwin gave to the said Oliver the following receipt:

"Received, Baltimore, February 15th, 1825, of Robert Oliver, five hundred dollars, on account of assignment of a share of the Mexican

Company's claim on the Mexican Government, for supplies furnished to General Mina, in 1816, which share is transferred to him.

"LYDE GOODWIN."

That on the 21st of March, 1825, the said parties, in furtherance of the above arrangement, procured one George J. Brown, (who had been previously appointed the trustee of insolvency of the estate of said Lyde Goodwin, in 1817, and whose possible claim to said fund it was probably thought advisable to preclude,) to execute an assignment in the following words:

"I hereby, by virtue of the power and authority in me vested, as the trustee of the estate of Lyde Goodwin, of the city of Baltimore, merchant, transfer, set over, and assign to Robert Oliver, of said city, one share, or one undivided ninth part of a claim of the Baltimore Mexican Company on the Government of Mexico, for supplies furnished to General Xavier Mina, commander of an expedition which sailed from this port in the year 1816, to the aid of the Republic of Mexico, belonging to the estate of Lyde Goodwin, and will execute any other instrument of writing which said Oliver may require for the more effectual security to him of said share.

"GEORGE J. BROWN,
"*Trustee of Lyde Goodwin.*"

"Baltimore, March 21st, 1825."

Which assignment was written in the handwriting of Lyde Goodwin, and at his instance signed; and in that act said Brown must be considered as the agent of said Goodwin, and the said Goodwin must be considered as having adopted the said act as his own, and in connexion with the other proceedings touching said claim. (See printed record, p. 166.)

That on the following day, March 22, 1825, the said Robert Oliver received his appointment as the attorney in fact of the said claimant, under the Mexican Company of Baltimore, by a power of attorney of that date, giving him full authority to prosecute said claim in every mode, and revoking the powers of Dennis A. Smith and General James Wilkinson. A copy of this power will be found at p. 156, 157, of the printed record.

By virtue of this power of attorney, the said Robert Oliver became entitled to the possession of all the documents, proofs, and evidences of the claims aforesaid, and actually received the same from the said former agents, which will be more particularly hereafter described.

That on the 24th of March, 1825, two days after said power of attorney, said Robert Oliver paid said Lyde Goodwin $500, on account of his previous arrangement to advance money on the faith of said Mexican claim, and took therefor the following receipt:

"Baltimore, March 24th, 1825. Received of Robert Oliver, esq., five hundred dollars, on account of my interest in the Mexican Company's claim on Mexico. "LYDE GOODWIN."

See printed record, p. 167.

That in further performance of said agreement for the advancement of $2,000 on the faith of said Mexican claim, said Robert Oliver paid said Lyde Goodwin on the 13th of April, 1825, $500, and on the 1st June, 1825, $500, making the full sum of $2,000.

That the fact of such assignment is acknowledged by the answer of the said executors of Robert Oliver, put into the petition of George M. Gill, trustee of said Goodwin; the said answer referring to the answer of J. Glenn and D. M. Perine to said petition, and making its averments, admissions, and defences their own; and the said answer of Glenn and Perine, among other things sets forth, that the said executors, (i. e. of Robert Oliver,) claimed to be entitled to the interest of said Goodwin in the same, (i. e. the claims of the Mexican company,) by virtue of an assignment from said Brown as his trustee to said Oliver, dated on or about the 21st of March, 1825, the original of which is now in the possession of respondents and ready to be produced when required, and when produced is prayed to be considered as part of their answer. (See printed record, p. 56, 57.)

That the claim of the said Mexican Company of Baltimore originated in the supplying of certain goods, wares, and merchandise, and supplies and funds by said company to General Xavier Mina, for the use of the people of Mexico in their war of independence, which company was composed originally of ten persons, but had been ultimately reduced to nine members, of whom said Lyde Goodwin was one, and entitled at the date of said assignment to one-ninth of the proceeds of said claim.

That the said claim was evidenced by the accounts of said company, the invoices of their shipments, and by the original receipts of the said Xavier Mina entered in the books of the said company, acknowledging the reception of the goods, merchandise, and supplies, and promising to pay for them at the rates therein specified; which said accounts, vouchers, invoices, and receipts are copied into the printed record herewith filed, extending from page 244 to 302, with other accounts of said Mexican company.

That the said evidences of debt passed to the possession, control, and management of said Robert Oliver, as attorney in fact of said company for the prosecution of said claim, and that an interest passed to him in the said claim, and in the evidences of the same aforesaid, under and by virtue of the assignment by said Lyde Goodwin of his one-ninth interest in said claim as security for his debt to said Robert Oliver; and that upon the faith of the said receipts, or of duplicates thereof, the said claim has been ultimately recovered.

That prior to the assignment of said Goodwin to said Oliver, in 1825, the claim of the said Baltimore Mexican company against General Xavier Mina, for the supplies and funds above mentioned as having been furnished to him for the use of the people of Mexico, had been acknowledged by the Government of Mexico, subsequent to its full establishment as a valid claim against said republic; and the fact of such acknowledgment and recognition was communicated to said Robert Oli-

ver by the letter of said Lyde Goodwin of January 11th, 1825, proposing said assignment, and from other sources; a copy of which letter will be found in the printed record, pages 167, 168.

That the accounts and vouchers of said claim had been passed by the proper Mexican tribunal as sufficiently authenticated prior to June 3, 1824, and subsequent to July 15, 1822, as appears from the letters to Dennis A. Smith and General James Wilkinson, of the latter date, and to John Quincy Adams of the former date, copies of which are inserted in said printed record, pp. 299, 300. That in the year the Mexican Congress passed a law for the payment of the debts of said Mina contracted for the public cause, within which provision the said claim of the Mexican Company of Baltimore was included.

That the said book called the leger book of the Mexican Company of Baltimore, containing the letters and accounts, and invoices and receipts, and acknowledgments aforesaid, copied into the printed record aforesaid, was used by the said John Glenn and David M. Perine, before the commissioners appointed to adjust the claims of American citizens against the Mexican Government, as the evidence of the claim of the Mexican Company of Baltimore, and by that evidence obtained an award in favor of their claim.

That the said Lyde Goodwin was also entitled to a commission of five per cent. on the amount received by said Mexican company, which was evidenced by the following letter addressed to the said Robert Oliver, and entered on the said leger of the Mexican company.

BALTIMORE, *March 21st*, 1825.

To ROBERT OLIVER, esq.

SIR: It having been agreed by the original proprietors of the shares of the Baltimore Mexican Company that Lyde Goodwin, the agent of said company, should receive a *a* commission of five per cent. for his services on the amount recovered by said company, you are hereby authorized to pay over to his order five per cent. on the amount so received." Which order was signed by the several persons interested in the claim of the company, and the money due thereunder to said Goodwin does not appear to have been previously assigned for any purpose to any person, but the proofs were held by said Robert Oliver under the power of attorney, by which he was authorized to collect the claim of the said company, and were in his hands at the time of the attachment laid.

That the said Robert Oliver likewise held, at the date of said attachment and answers, a claim of the said Lyde Goodwin upon a certain Lewis Merwin, of , arising out of a shipment of a cargo of coffee and other merchandise by said Goodwin to said Merwin, for the proceeds whereof a large sum was due to said Goodwin, which claim was held by said Oliver as a security for the debt of said Goodwin to him, and from which a very large sum was actually received by said Goodwin which should be credited against said debt before any part of

the proceeds of the Mexican claim should be so applied; and in any surplus of the said claim against Merwin your orator claims an interest under the said attachment, which bound the surplus as the property of Goodwin in the hands of said Goodwin; but the amount of the claim against Merwin so realized, your orator cannot ascertain, nor the time of its payment, without a full discovery from the said executors of Robert Oliver.

That shortly after the entry aforesaid on the docket, of the words "discontinued without costs, 10th January, 1829," the said Robert Oliver procured the said Lyde Goodwin to execute an assignment to him, of which the following is a copy:

"Being indebted to Robert Oliver, of Baltimore, upwards of nine thousand dollars, I hereby assign, transfer, and make over to the said Robert Oliver, in payment of my debt to him, the following objects, which were assigned to him many years ago, to secure the payment of the said debt due by me, to wit, all my undivided ninth part and right, title, and interest of every kind whatsoever, in the claim on the Government of Mexico for supplies furnished, and advances made, to the late General Mina, or the proceeds thereof, and which claims are under the control of the said Robert Oliver and his agent, John Mason, jr., now in Mexico; also a claim on a certain Louis Merwin, who died some years ago in Havanna. The object and *and* intention of this assignment is to make a full and complete transfer to the said Robert Oliver of all my right, title, and interest as aforesaid, for which said Robert Oliver has agreed to balance my account on his books, and to consider the same as satisfactorily settled; and I hereby authorize and order all my agents, or those holding any powers of attorney or instructions from me relative to the aforesaid property, to account with the said Robert Oliver for the same, or the proceeds thereof.

"L. GOODWIN."

Baltimore, 30th May, 1829.
Witness—
JOHN THOMAS.

"I confirm the above agreement.

"ROBERT OLIVER."

That the said assignment of May 30th, 1829, with the approval of said Robert Oliver subscribed, involves the admission that he held the share of said Lyde Goodwin in the Mexican company's claim, and his claim on Louis Merwin, of Havanna, under a previous assignment as security; and the only assignment insisted on or known of, is the one previously mentioned, insisted on by the executors in their answer above quoted, in the year 1825; and if this assignment be held to cover also Goodwin's commission of five per cent., then it also may have been previously assigned.

But your orator avers, that the said assignment of May, 1829, is fraudulent and collusive, and void as against the plaintiff in said attach-

ment, and leaves the claims of said Oliver and his executors as against the said attachment to stand as if no such assignment had been made. But your orator suggests, as one reason for the evasions and suppressions of the answers aforesaid, touching the said assignment of 1825, of the residuary interest of Goodwin, were with a view to procuring the abandonment of said attachment by plaintiff under the belief that Goodwin had no interest in any claim in Oliver's hands, in order that when cleared of the attachment Robert Oliver might get an absolute assignment of the same as above.

That the said Robert Oliver departed this life in 1834, and the said R. M. Gibbs, Charles Oliver, and Thomas Oliver were appointed executors of the will of said Robert Oliver, and had letters testamentary thereupon granted them; but said Thomas Oliver departed this life in the year .

That when the said claims of the Mexican company, together with other claims of American citizens against Mexico, were provided for by the treaty of April 11th, 1839, and the act of Congress of June 12, 1840, for the more convenient prosecution of the same before the commissioners, the claimants interested in the funds of said Mexican company, including the said executors of Robert Oliver, on the 8th of May, 1840, executed a deed of assignment to the said John Glenn and David M. Perine of the said claims, in trust to prosecute the same and receive them and all the proceeds thereof, and to deposite the same when received in the Mechanics' Bank of Baltimore, there to remain until the same be divided and distributed according to the rights of the parties respectively claiming or to claim any part of the same." (See printed record, p. 23, 24.)

That under said deed said trustees received the evidences of said claims, and upon presenting them to the consideration of the commissioners, it was by them ordered and directed that the Government of Mexico should, on account of the claim of the Baltimore Mexican Company, pay to David M. Perine and John Glenn, trustees of Robert Oliver's representatives, and whomsoever else it may concern, in the rates of their respective interests, the sum of four hundred and seventeen thousand four hundred and twenty-seven dollars and forty-seven cents; according to the terms of the award of the said commissioners, a full copy whereof is hereby referred to in the printed record, p. 99, 100, which award was rendered on the 9th of June, 1841.

That afterwards, in a suit instituted in Baltimore county court, on the 14th of September, 1846, by Philip E. Thomas and John White against John Glenn and David M. Perine, and others, relative to the distribution of said fund, upon the petition of George M. Gill, trustee of Lyde Goodwin, against said Perine and Glenn, and the said executors of Robert Oliver, such proceedings were had touching the title to the share of said Lyde Goodwin and his commission of five per cent. in the proceeds of the Mexican company's claim, that on the 23d day of June, 1849, it was ordered, adjudged, and decreed, by the court of appeals of Maryland, that the fund in said suit in the hands of the said

John Glenn and David M. Perine, as to the share and interest of said Lyde Goodwin, should be distributed as follows, viz., to the said executors of Robert Oliver, for five per cent. commission on the whole amount awarded to the trustees, in certificates, thirty-two thousand seven hundred and ninety-one dollars and forty-two cents, and in money five thousand one hundred and thirty-eight dollars and seventy-five cents; and for the share of said Goodwin, in certificates, twenty-one thousand four hundred and thirteen dollars and eighty-six cents, and in money eight thousand one hundred and sixty dollars and eighty cents, together with all and every accumulation of interest, or dividends, or investments of the same, made or accruing in and upon such part or portion of said fund.

That the said Glenn and Perine have received in money or in certificates the sum awarded them by the commissioners under the treaty of 1839, as trustees for the Mexican Company of Baltimore, and now hold the same to bide the result of an appeal taken by the said George M. Gill from the decree aforesaid in favor of said executors of Robert Oliver, so far as the interest [of] Lyde Goodwin is concerned.

That the said Lyde Goodwin departed this life in the year 184 , intestate and insolvent, and entirely destitute of property of any sort, and that no letters of administration have ever been taken out on his estate.

That the amount so decreed in favor of Robert Oliver's executors is much more than is requisite fully to pay the whole debt bona fide due from Lyde Goodwin to Robert Oliver at the time of laying the attachment aforesaid on said Mexican claims; but the amount of debt really due Robert Oliver, and properly chargeable on the proceeds of said claim, your orator has no means of precisely ascertaining, unless by the discovery of the defendants, executors of Oliver.

That said debt had been considerably diminished before the accruing of the proceeds of the Mexican claim, by the proceeds of Goodwin's claim upon Louis Merwin aforesaid, received by said Robert Oliver, which claim, as to its surplus, was also bound by said attachment; but the precise amount realized can only appear from the discovery of said executors. Your orator thereupon charges that the answers of said Robert Oliver to the interrogatories propounded as aforesaid are evasive, suppress material facts known to said Oliver, fail to tell the whole truth, misrepresent the real state of Goodwin's claim at their date, and were intended and calculated to mislead and deceive, and did mislead and deceive, the plaintiffs into the belief that said Lyde Goodwin had no rights, credits or claims, funds or property, in the hands of said Robert Oliver, subject to their attachment, and into the consequent failure further to prosecute the same.

That your orator avers that said Robert Oliver, at the laying of said attachment, did have in his hands "funds and evidences of debt" belonging to "Lyde Goodwin;" and that he had no power of attorney authorizing him to claim and receive any debt alleged to be owing by the Mexican Government, for the benefit of said Goodwin's assignees; for said power of attorney is general, and specifies and alludes to as-

signees; and the only assignee interested in said Goodwin's share of said claim was the said Robert Oliver, as security merely for his debt, and not absolutely.

That said Lyde Goodwin did transfer to said Robert Oliver, prior to said attachment, "evidences of debt due by the Mexican Government, or documents of that character, other than the said power of attorney.

That for the debt alleged to be due to him from Goodwin, he was then secured by a transfer of some document of a public character, showing that Goodwin was entitled to receive some funds from the Mexican government, other than said power of attorney.

That the answer of said Robert Oliver to the fourth interrogatory is utterly inconsistent with facts well known to him at the time of filing said answer. That he did then know, at the date of said answer, that the said Lyde Goodwin had and held an interest in the claim of the Mexican company against Xavier Mina, and against the government of Mexico; he did know that such interest had been assigned to him as security for a debt before due, and for money advanced on the faith of the assignment. He did know that he held the evidences of said claim, and that the same had been passed upon, or declared to be sufficiently authenticated, by the proper Mexican tribunal, and that the claim had been recognised by the Mexican Government. He did know that Lyde Goodwin retained the equity of redemption, the residuary interest in the surplus beyond his debt. He also knew that Goodwin was entitled to five per cent. commission upon the amount which should be recovered on said claim, and that he was ordered to pay the same to said Goodwin, as attorney of said company, or claimant of its proceeds. He knew that he held the evidences on which the said claim rested, and by which it must be allowed or disallowed, at his control and in his possession, or in the possession of his agent; and that all the money or funds which might be realized under said claim must come into his hands for distribution, under said power of attorney. He did know that he held an assignment or transfer of Lyde Goodwin's claim upon Louis Merwin, for the proceeds of consignments and other claims belonging to said Lyde Goodwin; also as security collateral to his debt due from said Lyde Goodwin, and that said Goodwin retained his equity of redemption or interest in all the surplus of the various funds thus transferred to said Robert Oliver by way of security merely, and not as satisfaction for said debt. And your orator avers that these facts could not be suppressed by said Robert Oliver, without violating his duty freely and fully to disclose every thing known to him, within the scope of said interrogatories; and that his answers, by reason of the suppressions and evasions and misrepresentations aforesaid, were calculated to mislead and *mislead and* deceive said plaintiffs into abandoning the said attachment.

That neither of said plaintiffs ever had any reason to suppose said answers had not fully disclosed the whole knowledge and interest of said Robert Oliver, touching the claim of said Lyde Goodwin on the Mexican Government, and his interest in the proceeds of said Mexican

company's claim, and in the other claims in said Oliver's hands, as assignee or for prosecution and recovery, till the facts and circumstances herein before detailed were brought to your orator's notice by Benjamin C. Howard, who discovered the same accidentally, while reading the printed record before referred to, and herewith filed, marked A.

That, by reason of the suppressions, and misrepresentations, and evasions aforesaid, the plaintiffs in said attachment having failed to prosecute the same since 1829, your orator fears he has lost his lien and remedy under said attachment at common law; but that a court of equity has jurisdiction to relieve him from the loss of the lien of said attachment, when the same has been occasioned by the fraudulent concealments, and suppressions, and evasions of the facts herein before set forth by said Robert Oliver.

That your orator has no means of ascertaining the amount received by said Robert Oliver for the proceeds of said Lyde Goodwin's claim against Louis Merwin, assigned as security to said Robert Oliver, save by the discovery of the defendants, and the production of all the books of account, and papers and vouchers of said Robert Oliver, touching the same; and that your orator has no means of ascertaining the real amount of the debt of said Lyde Goodwin to Robert Oliver at the date of said attachment, nor any means of ascertaining what amount said assigned claims and funds were bound as security for, and to which they were liable before your orator could take anything under his attachment, except by the discovery and production of the books and papers of Robert Oliver.

That Henry Baring, Alexander Baring, Thomas Nixon, and Swinton C. Holland departed this life, and the right to said judgment in their favor, jointly with your orator, has survived to your orator, who has in vain hoped that the said defendants would pay over to him the clear surplus of the funds in their hands bound by said attachment. All which actings and doings are contrary to equity and good conscience. In tender consideration whereof, and forasmuch as your orator is remediless at common law, and can find full and adequate relief in a court of equity only:

To the end, therefore, that the said defendants may, if they can, show why your orator should not have the relief prayed, and may, upon their several and respective corporal oaths, and according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, direct, and perfect answer make to such of the several interrogatories hereinafter numbered and set forth, as by a note hereunder written, they are respectively required to answer; that is to say:

1. Are not the said Charles Oliver and Robert M. Gibbs executors as aforesaid of Robert Oliver, deceased?

2. Are not John Glen and David M. Perine trustees as aforesaid, and have they not the proceeds of said Mexican claims, decreed in favor of said executors, still in their possession; and did they not use

signees; and the only assignee interested in said Goodwin's share of said claim was the said Robert Oliver, as security merely for his debt, and not absolutely.

That said Lyde Goodwin did transfer to said Robert Oliver, prior to said attachment, "evidences of debt due by the Mexican Government, or documents of that character, other than the said power of attorney.

That for the debt alleged to be due to him from Goodwin, he was then secured by a transfer of some document of a public character, showing that Goodwin was entitled to receive some funds from the Mexican government, other than said power of attorney.

That the answer of said Robert Oliver to the fourth interrogatory is utterly inconsistent with facts well known to him at the time of filing said answer. That he did then know, at the date of said answer, that the said Lyde Goodwin had and held an interest in the claim of the Mexican company against Xavier Mina, and against the government of Mexico; he did know that such interest had been assigned to him as security for a debt before due, and for money advanced on the faith of the assignment. He did know that he held the evidences of said claim, and that the same had been passed upon, or declared to be sufficiently authenticated, by the proper Mexican tribunal, and that the claim had been recognised by the Mexican Government. He did know that Lyde Goodwin retained the equity of redemption, the residuary interest in the surplus beyond his debt. He also knew that Goodwin was entitled to five per cent. commission upon the amount which should be recovered on said claim, and that he was ordered to pay the same to said Goodwin, as attorney of said company, or claimant of its proceeds. He knew that he held the evidences on which the said claim rested, and by which it must be allowed or disallowed, at his control and in his possession, or in the possession of his agent; and that all the money or funds which might be realized under said claim must come into his hands for distribution, under said power of attorney. He did know that he held an assignment or transfer of Lyde Goodwin's claim upon Louis Merwin, for the proceeds of consignments and other claims belonging to said Lyde Goodwin; also as security collateral to his debt due from said Lyde Goodwin, and that said Goodwin retained his equity of redemption or interest in all the surplus of the various funds thus transferred to said Robert Oliver by way of security merely, and not as satisfaction for said debt. And your orator avers that these facts could not be suppressed by said Robert Oliver, without violating his duty freely and fully to disclose every thing known to him, within the scope of said interrogatories; and that his answers, by reason of the suppressions and evasions and misrepresentations aforesaid, were calculated to mislead and *mislead and* deceive said plaintiffs into abandoning the said attachment.

That neither of said plaintiffs ever had any reason to suppose said answers had not fully disclosed the whole knowledge and interest of said Robert Oliver, touching the claim of said Lyde Goodwin on the Mexican Government, and his interest in the proceeds of said Mexican

company's claim, and in the other claims in said Oliver's hands, as assignee or for prosecution and recovery, till the facts and circumstances herein before detailed were brought to your orator's notice by Benjamin C. Howard, who discovered the same accidentally, while reading the printed record before referred to, and herewith filed, marked A.

That, by reason of the suppressions, and misrepresentations, and evasions aforesaid, the plaintiffs in said attachment having failed to prosecute the same since 1829, your orator fears he has lost his lien and remedy under said attachment at common law; but that a court of equity has jurisdiction to relieve him from the loss of the lien of said attachment, when the same has been occasioned by the fraudulent concealments, and suppressions, and evasions of the facts herein before set forth by said Robert Oliver.

That your orator has no means of ascertaining the amount received by said Robert Oliver for the proceeds of said Lyde Goodwin's claim against Louis Merwin, assigned as security to said Robert Oliver, save by the discovery of the defendants, and the production of all the books of account, and papers and vouchers of said Robert Oliver, touching the same; and that your orator has no means of ascertaining the real amount of the debt of said Lyde Goodwin to Robert Oliver at the date of said attachment, nor any means of ascertaining what amount said assigned claims and funds were bound as security for, and to which they were liable before your orator could take anything under his attachment, except by the discovery and production of the books and papers of Robert Oliver.

That Henry Baring, Alexander Baring, Thomas Nixon, and Swinton C. Holland departed this life, and the right to said judgment in their favor, jointly with your orator, has survived to your orator, who has in vain hoped that the said defendants would pay over to him the clear surplus of the funds in their hands bound by said attachment. All which actings and doings are contrary to equity and good conscience. In tender consideration whereof, and forasmuch as your orator is remediless at common law, and can find full and adequate relief in a court of equity only:

To the end, therefore, that the said defendants may, if they can, show why your orator should not have the relief prayed, and may, upon their several and respective corporal oaths, and according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, direct, and perfect answer make to such of the several interrogatories hereinafter numbered and set forth, as by a note hereunder written, they are respectively required to answer; that is to say:

1. Are not the said Charles Oliver and Robert M. Gibbs executors as aforesaid of Robert Oliver, deceased?

2. Are not John Glen and David M. Perine trustees as aforesaid, and have they not the proceeds of said Mexican claims, decreed in favor of said executors, still in their possession; and did they not use

said leger of the Mexican Company of Baltimore, before said commissioners; and where did they get it; and are not the receipts and acknowledgments therein, signed Xavier Mina, so signed in the handwriting of said Mina?

3. Did not said executors claim said Goodwin's interest in the Mexican company's claim under the assignment of said Brown and of said Goodwin in 1825; and are not said letter from Goodwin to Oliver, of January 11, 1825, and the receipts of Goodwin for $500 each, of February 15, 1825, and March 24, 1825, the genuine letters and receipts of the persons whose they profess to be; and is not said assignment of May 30, 1829, signed by Lyde Goodwin; and is not the memorandum thereunder written—"I confirm the above agreement, Robert Oliver"—signed by said Robert Oliver; and is not said assignment of George J. Brown, of March 21, 1825, written in the handwriting of said Lyde Goodwin, and signed by said George J. Brown?

4. Where are the documents showing the acknowledgment of said Mexican company's claim by the Mexican Government, or some officer or tribunal thereof; and when was the said act of the Mexican Congress, recognising the debts contracted by General Xavier Mina, including the said Mexican company's claim, either expressly or by implication, passed; what were the contents and provisions of such act? And set forth a full copy of the same.

5. Is not said power of attorney to said Robert Oliver from the members or representatives of said Mexican company correctly set forth, and was there any other power of attorney to him; if so, set it forth; and is not said Lyde Goodwin dead, insolvent; and had he any known and visible property at his death; and has any administration been granted on his estate?

6. Is not the letter of March 21, 1825, to Robert Oliver, to pay Lyde Goodwin five per cent. on the amount which might be recovered on account of said Mexican claim signed by the persons whose names are thereto appended; is it not entered in said leger; and is it not the foundation whereon the executors of Oliver claim the said five per cent. awarded them?

7. Did not said Lyde assign and transfer, or place in the hands of Robert Oliver, some claim against one Louis Merwin or his estate as security for said Goodwin's debts to said Oliver; and when was the said claim collected; what was its nature and amount; and how much was actually realized by said Oliver? And set forth and produce the proofs of the debt due to him from said Lyde Goodwin, its date, and amount, and origin.

8. Are not the answers of said executors and trustees to the petition of said Gill correctly recited, or in what are they incorrectly set forth?

And that said executors, and the said John Glenn and David M. Perine, may be compelled to produce the books, and papers, and vouchers, and accounts of said Robert Oliver, or in his possession, relating to the said Merwin claim and said Mexican claim, and the proceeds realized out of said Merwin claim, and touching the debt due from Lyde

Goodwin to said Robert Oliver at the date of the attachment; and that an account may be stated of the proceeds of said Merwin claim, and of the proceeds of said Mexican claim, including the five per cent. commission thereon of said Goodwin, and of the amount of said Oliver's debt at the date of the attachment; and of the surplus of said funds after liquidating said debt thereout.

And that the surplus of the said funds now in the hands of the said Perine and Glenn may be decreed to be liable, first, to satisfy your orator's judgment aforesaid under said attachment; and that said assignment of May 30th, 1829, may be set aside and postponed as against said judgment and attachment; and that such surplus may be decreed to be paid to your orator, so far as the same may be requisite to satisfy said judgment; and that in the mean time said Glenn and Perine may be enjoined from paying away to the executors of Oliver any portion of said funds.

And that your orator may have such further relief as to your honors may seem equitable and fit, may it please your honors to grant to your orator the United States' most gracious writ of subpœna, to the said defendants, Charles Oliver, and Robert N. Gibbs, and John Glenn, and David M. Perine, to be directed, &c., &c.

And your orator will ever pray, &c.

BENJ'N C. HOWARD,
HENRY WINTER DAVIS,
For complainant.

The defendants, John Glenn and David M. Perine, are required to answer the interrogatories numbered respectively 2, 3, 4, 5, 6, 7, 8.

The defendants, Charles Oliver and Robert M. Gibbs, are required to answer the interrogatories numbered respectively 1, 2, 3, 4, 5, 6, 7, 8.

BALTIMORE CITY,
Maryland, to wit:

This day personally appeared before the subscriber, a justice of the peace in and for the county aforesaid, Benjamin C. Howard, and made oath in due form of law that neither of the plaintiffs in the said suit in the within bill mentioned of Alexander Baring, Henry Baring, Thomas Nixon, Swinton C. Holland, and John Deacon, against Lyde Goodwin, nor their attorney, the said Benjamin C. Howard, ever had any knowledge or notice that the said Robert Oliver, in the bill mentioned, held at the date of the said answer in the attachment proceedings in the bill mentioned, any claim or chose in action against the Mexican Government, or any person wherein the said Lyde Goodwin had any interest; nor had the said plaintiffs, nor had either of them, nor their attorney aforesaid, any reason to believe that the said answers were evasive or fraudulent; and that said Robert Oliver had not fully and fairly disclosed all that he knew relative to the claims aforesaid in said answers; nor had they nor either of them any notice, or any reason to

suppose, that said Oliver had concealed the fact that he claimed and held control of said Lyde Goodwin's claim or share in said Mexican company, and of his claim against Louis Merwin, in the bill mentioned, under and by virtue of an assignment to him by way of security merely for a debt due him, nor that said Lyde Goodwin had any remaining interest in either of said claims, or in the claim to five per cent. on the amount ultimately recovered under the Mexican company's claim aforesaid, at the date of said attachment laid, till the month of , 1850, when the notice and information upon the above points in the bill detailed was accidentally discovered and received by the affiant, Benjamin C. Howard, while examining, in the performance of his duty as reporter of the Supreme Court of the United States, the printed record with the bill filed in the appeal of George M. Gill, permanent trustee for the creditors of said Lyde Goodwin, against the defendants in this bill; and neither affiant nor his clients aforesaid, nor either of them, prior to such accidental discovery, had any reason to suspect the facts so discovered to exist, nor any means known of to them of making such discovery, nor any fact or circumstance to put them on inquiry.

In witness whereof I have hereto set my hand and seal this 31st day of October, 1850.

JOHN J. SNYDER, *J. P.*

Complainant's exhibit No. 1.

Complainant's exhibit No. 1.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

In the circuit court, May term, 1821.

Trials No. 135.	Alexander Baring and others.	Case nar. filed; this suit docketed by consent; J. M. app and continued; November, 1820, non apt. and issue; notice of trial and continued; bill of exchange filed; May 3d, 1821, judgment by confession for the damages in the nar. and costs; to be released on payment of $ with interest from and costs.
J. M.	Lyde Goodwin.	October 30th, 1821, bill of exchange withdrawn by plaintiff's attorney; fi. fa. issued to May, 1822, to lie.

Judicial docket, May term, 1822, *No.* 85.

B.C.H.	Alexander Baring, and others.	Fi fa., dama.....	$60,000 00
		Costs.....	14 25
		Add'l.....	0 60
85.	To lie.	To be released on payment of $ from , and costs.	, with interest
	Lyde Goodwin.	Judgment 3d May, 1821.	

Judicial docket, May term, 1823, *No.* 30.

B.C.H.	Alexander Baring, and others.	2d fi. fa., dama.....	$60,000 00
		Costs.....	14 25
		Add'l.....	1 20
30.	To lie.	To be released on payment of $, with interest from , and costs.	
	Lyde Goodwin.	Judgment 3d May, 1821.	

Judicial docket to May term, 1824, *No.* 32.

B.C.H.	Alexander Baring, and others.	3d fi. fa., dama.....	$60,000 00
		Costs.....	14 25
		Add'l.....	1 80
32.	To lie.	To be released [on] payment of $41,005 88, with interest from , and costs.	
	Lyde Goodwin.	Judgment 3d May, 1821.	

Judicial docket to May term, 1825, *No.* 31.

B.C.H.	Alexander Baring, and others.	4th fi. fa., dama.....	$60,000 00
		Costs.....	14 25
		Add'l.....	2 40
31.	To lie.	To be released on payment of $41,005 88, with interest from , and costs.	
	Lyde Goodwin.	Judgment 3d May, 1821.	

Judicial docket to May, 1826, *No.* 27.

B.C.H.	Alexander Baring, and others.	5th fi. fa., dama.....	$60,000 00
		Costs.....	14 25
		Add'l.....	3 00
27.	To lie.	To be released on payment of $41,005 88, with interest from , and costs.	
	Lyde Goodwin.	Judgment 3d May, 1821.	

Judicial docket to May, 1827, *No.* 39.

B.C.H.	Alexander Baring, and others.	6th fi. fa., dama.....	$60,000 00
		Costs.....	14 25
		Add'l.....	3 60
39.	To lie.	To be released on payment of $41,005 88, with interest from 7th November, 1819, and costs.	
	Lyde Goodwin.	Judgment 3d May, 1821.	

Judicial docket to May, 1828, No. 41.

B.C.H.	Alexander Baring, and others.	7th fi. fa., dama.....	$60,000 00
		Costs.....	14 25
		Add'l.....	4 20
41.	To lie.	To be released on payment of $41,005 88, with interest from 7th November, 1819, and costs.	
	Lyde Goodwin.	Judgment 3d May, 1821.	

Judicials to May, 1829, No. 30.

B.C.H.	Alexander Baring, and others.	8th fi. fa., dama.....	$60,000 00
		Costs.....	14 25
		Add'l.....	4 80
30.	To lie.	To be released on payment of $41,005 88, with interest from 7th November, 1819, and costs.	
	Lyde Goodwin.	Judgment 3d May, 1821.	

Judicial docket, April, 1830, No. 35.

B.C.H.	Alexander Baring, and others.	9th fi. fa., dama.....	$60,000 00
		Costs.....	14 25
		Add'l.....	5 40
35.	To lie.	To be released on payment of $41,005 88, with interest from 7th November, 1819, and costs.	
		May 10th, 1824, credit.....	$1,000 00
		" 12th, " "	3,000 00
	Lyde Goodwin.	Judgment 3d May, 1821.	

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

I, Thomas Spicer, clerk of the circuit court of the United States, for the fourth circuit, in and for the Maryland district, do hereby certify, that the aforegoing are true copies of the docket entries in the case of Alexander Baring and others against Lyde Goodwin.

In testimony whereof I hereunto subscribe my name, and affix the seal of the said circuit court, this nineteenth day of December, in the year of our Lord one thousand eight hundred and fifty.

[L. S.]

THO. SPICER, *Clerk circuit court.*

Complainant's exhibit No. 2.—Record of attachment.

Complainant's exhibit No. 2.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States, for the fourth circuit, in and

for the Maryland district, begun and held at the city of Baltimore on the eighth day of December, in the year of our Lord one thousand eight hundred and twenty-eight—

Present, the honorable Gabriel Duvall, one of the associate justices of the Supreme Court of the United States; Elias Glenn, judge of Maryland district; Nathaniel Williams, esq., attorney; Thomas Finley, esq., marshal; Philip Moore, clerk.

Among other were the following proceedings, to wit:

ALEXANDER BARING, Henry Baring, John Deacon, Thomas Nixon, [and] Swinton C. Holland,
vs.
ROB'T OLIVER, guardian of Lyde Goodwin.

Be it remembered, that heretofore, to wit, on the twenty-sixth day of October, in the year of our Lord one thousand eight hundred and twenty-six, the said Alexander Baring, Henry Baring, John Deacon, Thomas Nixon, and Swinton C. Holland, by Benjamin C. Howard, their attorney, prosecuted and sued forth out of the circuit court here the writ of the United States of America, of attachment, directed to the marshal of the Maryland district aforesaid, in the words, and of tenor following, to wit:

Attachment.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

To the marshal for the Maryland district, greeting:

[L. S.] Whereas, at a circuit court of the United States, for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore on the first day of May, in the year of our Lord one thousand eight hundred and twenty-one, Alexander Baring, Henry Baring, John Deacon, Thomas Nixon, and Swinton C. Holland, merchants, residing in foreign parts beyond the seas, to wit, at London, in the Kingdom of Great Britain, subjects of the King of the United Kingdom of Great Britain and Ireland, by the judgment of the same court recovered against Lyde Goodwin, late of Baltimore city, in the State of Maryland, merchant, a citizen of the State of Maryland, as well the sum of sixty thousand dollars current money, for their damages which they had sustained by reason of the non-performance of certain promises and assumptions by the said Lyde Goodwin to the said Alexander Baring, Henry Baring, John Deacon, Thomas Nixon, and Swinton C. Holland, before that time made, as [also] the sum of fourteen dollars and twenty-five cents for their costs and charges by them about their suit in that behalf laid out and expended, whereof the said Lyde Goodwin is convict, as of record it appears.

Therefore you are hereby commanded to attach any of the lands, tenements, goods, chattels, and credits of the said Lyde Goodwin,

if they shall be found in your district, to the value of the damages, costs, and charges aforesaid, and when you have the same so attached, or any part thereof, the same in your custody safe keep, so that you have the same before the said circuit court, to be held at the city of Baltimore, on the eighth day of December next, then and there to be condemned according to the statute in such case made provided, to and for the use of the said Alexander Baring, Henry Baring, John Deacon, Thomas Nixon, and Swinton C. Holland, unless the said Lyde Goodwin shall come then and there by himself, or lawful attorney, and show sufficient cause to the contrary.

And you are likewise commanded, by good and lawful men of your district, to make known to such person or persons, in whose hands or possession the said goods, chattels, and credits of the said Lyde Goodwin shall be attached, that he, or they, be and appear at the said court, at the day and place aforesaid, to show cause, (if they have any,) why the said goods, chattels, and credits, so as above said, in his or their hands attached, should not be condemned, and execution thereof had and made, as in other cases of recoveries and judgments given in courts of record, according to the directions of the statute aforesaid, if to him, her, or them it shall seem meet; and how you shall execute this writ, make known to the said court, on the day and at the place aforesaid; and have you then and there this writ.

Witness the honorable John Marshall, chief justice of our Supreme Court, the first Monday in August, in the year of our Lord one thousand eight hundred and twenty-six.

PHILLIP MOORE,
Clerk circuit court.

B. C. H., issued 25th October, 1826.

At which mentioned eighth day of December, in the year of our Lord one thousand eight hundred and twenty-six, being the day of the return of the said aforegoing writ, comes into the circuit court here the said Alexander Baring, Henry Baring, John Deacon, Thomas Nixon, and Swinton C. Holland, by their attorney aforesaid, and the marshal of the Maryland district aforesaid, to whom the said writ was in form aforesaid directed, make return thereof to the court here thereon endorsed, that is to say:

On the 28th of October, 1826, laid in the hands of Robert Oliver, a debtor of said Lyde Goodwin, in the presence of John Thomas and William H. Vanwyck, amount unknown.

PAUL BENTALOW, *Marshal.*

And the said Robert Oliver, garnishee of the said Lyde Goodwin, in whose hands the said sum of money, part of the goods, chattels, and credits of the said Lyde Goodwin, was so as aforesaid attached, being called, comes into the circuit court here by John Glenn, his attorney, and defends the force and injury, when and so forth.

Thereupon further process of and upon the premises aforesaid, be-

tween the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the eighth day of May next.

At which said eighth day of May, in the year of our Lord one thousand eight hundred and twenty-seven, come again into the circuit court here, the parties aforesaid, by their attorneys aforesaid.

And the said Alexander Baring, Henry Baring, John Deacon, Thomas Nixon, and Swinton C. Holland, by their attorney aforesaid, exhibit in court here interrogatories in writing to the said Robert Oliver, garnishee as aforesaid, and which are as follows, to wit:

Interrogatories to be exhibited to Robert Oliver, esquire, garnishee.

Interrogatory 1. Had you at the time of laying the attachment in the above cause in your hands, or at any other time, and when, any funds, evidences of debt, stocks, certificates of stock, belonging to Lyde Goodwin, or any acknowledgment of debt due by the Government of Mexico to the said Lyde Goodwin?

2. Did not the said Lyde Goodwin transfer to you some certificate of stock or evidence of debt due by the said Mexican Government to Goodwin, or some document of that character, and when did such transfer take place?

3. Had you not a claim against said Goodwin secured by a transfer or pledge of some certificate of stock, or document of a public character, showing that Goodwin was entitled to receive some funds from the Mexican Government? If so, what was the amount of your claim so secured, and what was the security; was, or was not, the balance or remaining credit under your control at the time of laying the attachment? State particularly how your claim was secured.

4. Do you know any other matter or thing that may be of advantage to the plaintiffs in the above cause? If so, state it as fully as if you were particularly interrogated thereto.

B. C. HOWARD,
Plaintiffs' attorney.

Rule to answer.

Thereupon, on motion of the said Alexander Baring, Henry Baring, John Deacon, Thomas Nixon, and Swinton C. Holland, by their attorney aforesaid, it is ruled by the court here, that the said Robert Oliver, garnishee as aforesaid, answer each and every of the interrogatories aforesaid, on or before the second day of the next term.

And it is further ruled by the court here, that a copy of the said interrogatories and rule be served on the said Robert Oliver, garnishee as aforesaid, by the said Alexander Baring, Henry Baring, John Deacon, Thomas Nixon, and Swinton C. Holland, or their attorney, at least ten days before the second day of the next court.

Rule plea.

And thereupon the said Alexander Baring, Henry Baring, John

Deacon, Thomas Nixon, and Swinton C. Holland, by their attorney aforesaid, pray that the said Robert Oliver, garnishee as aforesaid, may also answer to the writ of attachment aforesaid, in the plea aforesaid. Whereupon it is ruled by the court here, that the said Robert Oliver, garnishee as aforesaid, answer to the writ of attachment aforesaid in the plea aforesaid, or judgment will be rendered against him in default thereof.

And the said Robert Oliver, garnishee as aforesaid, by his attorney aforesaid, defends the force and injury, when, &c., and prays leave of the court here to imparle until the eighth day of December next, to answer to the writ of attachment aforesaid in the plea aforesaid, and he hath it; the same day is given to the said Alexander Baring, Henry Baring, John Deacon, Thomas Nixon, and Swinton C. Holland also.

At which said eighth day of December, in the year of our Lord one thousand eight hundred and twenty-seven, to which said day the said Robert Oliver, garnishee as aforesaid, had leave to imparle, and then to answer to the writ of attachment aforesaid, in the plea aforesaid, come again into the circuit court here, the parties aforesaid, by their attorneys aforesaid.

Thereupon the said Robert Oliver, garnishee as aforesaid, files in court here his answers to each and every of the interrogatories in form following, to wit:

Answer to interrogatories.

Answer of Robert Oliver, garnishee, to the annexed interrogatories.

1. To the first interrogatory he answers: That he had not at the time of laying the attachment in the above cause in his hands, nor at any other time, any funds, evidences of debt, stocks, or certificates of stocks, belonging to Lyde Goodwin, or any acknowledgment of debt due by the Government of Mexico, but that he had a power of attorney signed by said Lyde Goodwin, in conjunction with several other persons, claimants of a debt alleged to be owing by the Mexican Government, and authorizing him to claim and receive the same for the benefit of said Goodwin's assignees and others.

2. To the 2d interrogatory he answers: That the said Goodwin did not transfer to him any certificates of stock or evidences of debt due by the Mexican Government, or documents of that character, unless the before mentioned power of attorney may be called one.

3. To the 3d interrogatory he answers: That he had, and still has, a large claim against said Goodwin for money lent him from time to time; that he is not secured for this debt, and never has been secured, by a transfer or pledge of some certificate of stock or document of a public character, showing that Goodwin was entitled to receive some funds from the Mexican Government, unless aforesaid power of attorney be deemed such, but which he does not admit it to be.

4. To the 4th interrogatory he answers: That he knows nothing.

CITY OF BALTIMORE, *sct.*

On this 22d day of December, 1827, before me, the subscriber, a justice of the peace in and for the city of Baltimore, personally appeared the within named Robert Oliver, and made oath that the answers made by him to the aforegoing interrogatories are correct and true, to the best of his knowledge and belief.

Sworn before. J. C. WALCH.

Thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is further continued until the eighth day of May next.

At which said eighth day of May, in the year of our Lord one thousand eight hundred and twenty-eight, come again into the circuit court here the parties aforesaid, by their attorneys aforesaid.

Rule—security for costs.

And thereupon, on motion of the said Robert Oliver, garnishee as aforesaid, by his attorney aforesaid, it is rule[d] by the court here, that the said Alexander Baring, Henry Baring, John Deacon, Thomas Nixon, and Swinton C. Holland, give security for costs, in case they shall happen to be nonsuited in the plea aforesaid, or judgment will be entered against them in default thereof.

Robert Gilmor, security for costs.

Whereupon comes into court here, in his proper person, Robert Gilmor, and undertakes for the said Alexander Baring, Henry Baring, John Deacon, Thomas Nixon, and Swinton C. Holland, that if they in the plea aforesaid shall be nonsuited, or from maintaining their action aforesaid shall be precluded, then the said Alexander Baring, Henry Baring, John Deacon, and Swinton C. Holland, shall pay unto the said Robert Oliver, garnishee as aforesaid, all such costs and charges by him about his defence in this part sustained, which shall be adjudged unto the said Robert Oliver, garnishee as aforesaid, by the court here, or that he, the said Robert Gilmor, will do the same for them.

Whereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties, and their attorneys aforesaid, and by order of the court here thereon, is further continued until the eighth day of December next. At which said eighth day of December, in the year of our Lord one thousand eight hundred and twenty-eight, come again into the circuit court here the parties aforesaid, by their attorneys aforesaid.

Discontinued without costs.

And now here at this day, to wit, the tenth day of January, in the

year of our Lord one thousand eight hundred and twenty-nine, the following entry was made on the docket, to wit:

"January 10, 1829. Discontinued without costs."

In testimony that the aforegoing is a true copy, taken from the record and proceedings of the circuit court aforesaid, I hereunto subscribe my name, and affix the seal of the said circuit court, this twenty-seventh day of November, in the year of our Lord one thousand eight hundred and fifty.

[L. S.]

THO. SPICER,
Clerk circuit court.

Complainant's exhibit A. See agreement hereinafter inserted in this record at page 59.

Afterwards, to wit, on the seventh day [of] April, in the year of our Lord one thousand eight hundred and fifty-one, the said Charles Oliver and Robert M. Gibbs, executors aforesaid, by J. Mason Campbell, their solicitor, filed in the circuit court here their answer to the bill of complaint of the said John Deacon, in the words and figures following, to wit:

In the circuit court of the United States, for the fourth circuit, and district of Maryland.

JOHN DEACON
vs.
CHARLES OLIVER, Robert M. Gibbs, and others. } In equity.

Answer.

To the honorable the judges of the circuit court of the United States, for the fourth circuit, and district of Maryland.

The joint answer of Charles Oliver and Robert M. Gibbs to the bill filed in this cause, or to so much thereof as they are advised it is material or necessary for them to answer unto.

To the first interrogatory, they answer as follows: They are the surviving executors of Robert Oliver, deceased.

To the second interrogatory they answer as follows: John Glenn and David M. Perine were appointed trustees by a deed executed by these respondents and others, bearing date on the 8th day of May, in the year of our Lord 1841, and set out on pages 23 and 24 of the printed record filed as an exhibit with the bill. The said Glenn and Perine have not now, nor had they at the time the bill was filed, the proceeds of the Mexican claim of Goodwin, decreed in favor of the executors of Robert Oliver. Under process issued from the court of appeals of Maryland to enforce the decree, the said trustees transferred and paid to these respondents, on the 11th April, 1850, the nett proceeds of said claim, as follows:

On account of Goodwin's commissions—

$2,188 95	United States loan, 5 per cent., at	-	$2,188 95
17,136 37	do. do. 6 per cent., at	-	18,294 78
In money	- - - - -	-	1,659 39
			$22,143 12

On account of Goodwin's share in the Mexican Company—

$3,398 77	United States 5 per cent. loan, at	-	$3,398 77
27,279 08	do. 6 per cent. do.	-	29,122 90
In money	- - - - -	-	2,588 80
			$35,110 47

Out of which two said amounts of $22,143 12 and $35,110 47 the said executors have since paid to Mr. McMahon, as commissions, 6 per cent., or thereabouts, and from which other payments, for costs and otherwise, are yet to be made.

These respondents do not know whether said Glenn and Perine did or did not use the ledger of the Mexican Company of Baltimore, before the commissioners appointed under the convention with Mexico. They have been informed, and believe, that the claim was prosecuted before the commissioners by counsel, and not by the said trustees in person; but they never have been informed, or, if informed, they do not now remember, what evidence was used before the commissioners. These respondents do not know, and are not informed, whence said ledger was procured, but they believe that the receipts and acknowledgments, therein signed Xavier Mina, are in said Mina's handwriting.

To the third interrogatory they answer as follows: The executors of Robert Oliver claimed to be entitled to the interest of Lyde Goodwin, as shareholder in the Mexican company's claim on Mexico, under an assignment thereof, executed to said Oliver on the 21st March, 1825, by George J. Brown, trustee of said Goodwin, and also claimed title to all said Goodwin's interest, whether as shareholder in the company, or as its agent under another assignment, executed to said Oliver on the 30th May, 1829, by Goodwin himself, the consideration of the latter assignment being set out on its face, and the consideration of the former assignment being the sum of $2,000, paid by said Oliver in four sums of $500 each, one upon the 15th February, 1825, one upon the 24th March, 1825, one upon the 13th April, 1825, and one upon the 1st June, 1825. They are informed and believe that the said assignment of Brown is, in the body thereof, in Lyde Goodwin's handwriting; and that the signature, "George J. Brown," thereto appended, is in the handwriting of said Brown. The assignment of May 30, 1829, is signed by Lyde Goodwin, and the memorandum at its foot is signed by Robert Oliver.

They are informed, and believe, that the letter of said Goodwin to

said Oliver, bearing date on the 11th January, 1825, and set out on pages 167, 168, of the printed record above mentioned, was written by Lyde Goodwin; and that his two receipts, for $500 each, set out on page 167 of the same record, are signed by him.

To the fourth interrogatory they answer as follows: They have no knowledge or information as to where the documents are, showing the acknowledgment of the Mexican company's claim by the Mexican Government, or any of its tribunals or officers; nor have they any knowledge or information as to when the Mexican Congress passed any act recognising the debts contracted by General Mina, including the Mexican company's claim, or as to the contents of said act, nor have they any copy of the same.

To the fifth interrogatory they answer as follows: The power of attorney to Robert Oliver from the members, or representatives of members, of the Mexican company is, as they are informed, and believe, correctly set out on pages 156 and 157 of the printed record above mentioned; and they know of no other power of attorney held by him in relation to that claim. The said Lyde Goodwin is dead, and, as they are informed, and believe, insolvent; but they know not, and are not informed, whether he left at his death any known and visible property, or whether letters of administration have been taken out on his estate.

To the sixth interrogatory they answer as follows: They are informed, and believe, that the signatures appended to the letter to Robert Oliver, bearing date on the 21st March, 1825, and set out on page 110 of the printed record above mentioned, are genuine, and that a copy of said letter is entered in the company's ledger, and that said letter was part of the evidence upon which the claim of said Goodwin to commissions was maintained.

To the seventh interrogatory they answer as follows: Lyde Goodwin, so far as they are informed, and believe, did not assign and transfer, or place in the hands of Robert Oliver, any claim against Louis Mervin or his estate, by way of security for said Goodwin's indebtedness to said Oliver. They are informed, and believe, that the only assignment of any description ever made by said Goodwin to said Oliver of his claim on Louis Mervin, was that made on the 30th May, 1829, already mentioned, which conveyed the same to him absolutely, unless a draft of $2,000, which was drawn by said Goodwin upon said Mervin, and passed by said Goodwin to Oliver in 1820, may be considered a transfer or assignment of Goodwin's claim to that extent. The said draft, which Mervin refused to accept or pay, was, as they are informed, and believe, discounted by said Oliver for said Goodwin, and the full amount thereof, deducting only $41 33, for four months and four days interest, paid to Goodwin by Oliver, who held it as his absolute property, and not by way of security.

These respondents further say, that there had been transactions between said Goodwin and said Oliver prior to the year 1819; but they were all settled before the commencement of that year, as they are informed and believe.

They are informed, and believe, that on the 13th July, 1819, the said Oliver loaned said Goodwin $1,500, to be returned in 90 days, with interest; and on the 9th August next following, the further sum of $500; and that said Goodwin's notes therefor, of those dates, payable on demand, with interest, were taken by said Oliver; but these respondents cannot produce said notes, because they have never had them, and do not know where they are. The draft on Mervin, already mentioned, was, as they are informed, and believe, discounted by said Oliver on the 31st October, 1820, and $1,200 paid said Goodwin at that time; the balance, after deducting interest, as above stated, having been paid him by Oliver on the 2d November, 1820. These respondents have never seen said draft, nor do they know where it is.

The payments made on account of Goodwin's share in the Mexican company have been already mentioned, with the dates thereof and receipts therefor. The checks of said Oliver for said payments, as well as said receipts, are filed in the office of the clerk of Baltimore county court, as they are informed and believe. *The* believe, however, that the same are correctly set out on pages 167 and 169 of the printed record already mentioned.

To the eighth interrogatory they answer as follows: They believe that the answers of Oliver's executors, and of Glenn and Perine, trustees, are correctly recited and copied in said printed record.

And these respondents, having so answered the interrogatories propounded to them, proceed further to state *and* several matters of defence to said bill.

They say that they are informed and believe that the answers of the said Oliver to the interrogatories put to him in the attachment case mentioned in the said bill are true, and they deny the fraud and combination with which their testator is charged. They aver that the said Oliver continued to live in the city of Baltimore from the day of the issual of said attachment, until the day of his death, in December, 1834; and that said Goodwin resided in the same city until his death, which took place in or about December, 1845; and they are informed and believe that the said Goodwin, though all the time needy, never claimed any interest whatever in his share in the Mexican company, or the proceeds thereof, at any time after the transfer of the same in 1825, and that he never set up any claim to his commissions, after his assignment of 1829, until subsequently to the death of said Oliver, and the award made by the mixed commission in favor of the trustees, Glenn and Perine. They are informed and believe, that the fact of said transfer of 1825 was known to other persons than the parties to it, and was spoken of by said Oliver; and they charge that the attorney of record for the plaintiffs, in the judgment mentioned in the bill, was a party to the deed of trust to Glenn and Perine herein before referred to, (printed record, 23, 24,) which claimed and described Goodwin's share as the property of said Oliver.

These respondents are informed and believe, and further charge, that the sum paid by said Oliver in 1825 for Goodwin's share was the full value

thereof at the time, and that he bought two other shares in the spring of that year at the same price, and that afterwards the value of said shares declined so much that no one would buy them at any price. The evidence of these facts will be found in the printed record aforesaid, in the deposition of John Sullivan, (page 109,) in the deposition of Dennis A. Smith, (pages 136, 137,) and in the transfers to said Oliver of the shares of John Gooding and James Williams, made by their permanent trustees, and set out on pages 80 and 81.

These respondents are satisfied that without the active exertions of said Oliver, and his influence, and his readiness to make the heavy expenditures necessary for their prosecution, the said claims would never have been recovered from the Mexican Government, and that the value which *the* acquired subsequent to his purchase was mainly owing to him.

These respondents are further informed and believe, and therefore charge, that the said Oliver never had any interest in Goodwin's commissions until the execution of the assignment by Goodwin in 1829, already mentioned; and they deny that the proceedings upon the attachment mentioned in the bill can in any way affect rights which were not acquired until after the discontinuance of said attachment and proceedings. They further charge that, to the best of their knowledge, information, and belief, the said assignment of 1829 was made bona fide, and for a valuable consideration, and they deny all fraud in the same.

These respondents are also informed and believe, and therefore aver, that it appears by the docket entries in the cause that the said attachment, and the proceedings under it, were discontinued by the plaintiffs therein, on the 10th January, 1829, and they charge that said discontinuance, so far as they are informed and believe, was the voluntary act of the plaintiffs, done without the request of, or consultation with, said Oliver; and these respondents rely upon and plead the said discontinuance in bar of the relief prayed by said bill, and ask to have the same benefit of this defence as if it were fully and formally pleaded.

These respondents are further informed and believe, and therefore charge, that the bill of exchange, upon which the judgment mentioned in the bill was rendered, is not among the papers in the case, and that it appears by the docket entries in the cause to have been withdrawn therefrom by the attorney of the plaintiffs in said judgment; and inasmuch as it appears by the declaration that there was another party on said bill, they aver and submit to this honorable court that the complainant cannot have the relief prayed without the production of said bill, or proof of its loss.

These respondents further rely upon and plead the statute of limitations, and also the lapse of time, and also the laches, of the complainant, and his co-plaintiffs in said attachment, in bar of relief sought by the bill; and they pray to have the same benefit of these defences, and each of them, as if the same, and each of them, had been fully and formally pleaded.

R. M. GIBBS,
J. MASON CAMPBELL,
Solicitor for respondent.

STATE OF NEW YORK,
City of New York, to wit:

Be it remembered, and it is hereby certified, that on this 31st day of March, in the year of our Lord 1851, before me, the subscriber, a commissioner appointed by the circuit court of the United States, in and for the second circuit and southern district of New York, to take affidavits, &c., personally appeared Robert M. Gibbs, esq., and made oath on the holy evangely of Almighty God, that the matters and things stated in the foregoing answer are true to the best of his knowledge and belief.

In witness of which I have hereto set my hand and seal, at said city, on the day and year above written.

J. W. NELSON, [SEAL.]
U. S. Commissioner.

UNITED STATES OF AMERICA,
Southern district of New York, to wit:

I, John W. Nelson, clerk of the circuit court of the United States of America, for the southern district of New York, second circuit, do hereby certify, that I am well acquainted with the handwriting of J. W. Nelson, whose name is subscribed to the annexed answer, and that the signature to the same is in his proper handwriting. And I do further certify, that he was, at the time of signing the same, a U. S. commissioner, duly appointed under and by virtue of the acts of Congress in such case made and provided, by the circuit court of the United States of America, for the southern district of New York.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said circuit court, this thirty-first day of March, in the year of our Lord one thousand eight hundred [SEAL.] and fifty-one, and of the independence of the United States the seventy-fifth.

J. W. NELSON, *Clerk.*

Respondents' exhibits as part of their evidence, being a copy of the judgment and of the docket entries in the case of Baring, Brothers & Co. vs. Lyde Goodwin, and a transcript of the proceedings under the attachment in the case of Baring, Brothers & Co. vs. Robert Oliver, garnishee of Lyde Goodwin, herein before inserted as complainants' exhibits Nos. 1 and 2, at pages 32 and 35 of this record.

And on the same day, to wit, the seventh day of April, in the year of our Lord one thousand eight hundred and fifty-one, the said John Deacon, by his solicitor aforesaid, filed in the circuit here an order dismissing the said bill as to John Glenn and David M. Perine, trustees of the Mexican Company of Baltimore, in the words and of the tenor following, to wit:

In equity. In the circuit court of the United States, for the 4th circuit and district of Maryland.

JOHN DEACON
vs.
CHARLES OLIVER, Robert M. Gibbs, and others.

Bill dismissed as to Glenn and Perine.

MR. SPICER: The answer of Oliver & Gibbs, executors of Oliver, having been filed in this cause, enter the bill dismissed as to John Glenn and David M. Perine, it appearing by said answer that they had paid over to Oliver's executors, prior to the filing of the bill, all the funds in controversy.

H. WINTER DAVIS,
Sol. for complainant.

April 7, 1851.

Afterwards, to wit, on the fifth day of May, in the year of our Lord one thousand eight hundred and fifty-one, the said John Deacon, by his solicitor aforesaid, filed in the circuit court here an additional interrogatory, as part of his bill of complaint, in the words and of the tenor following, to wit:

9th interrogatory.

Addition to complainants' bill.

DEACON
vs.
OLIVER'S executors.

9th interrogatory filed by consent of parties, to be answered by Oliver's executors.

That said executors of Robert Oliver may state what was the amount of the claim of Lyde Goodwin on Louis Mervin, in the said assignment of May 30th, 1829, mentioned; when was the claim settled, and by whom; was not property of some character transferred to said Robert Oliver, or to some one for him in settlement and satisfaction of that claim, either alone or together with other claims of said Robert Oliver? And if the latter, then state the nature and amount of such other claims; state what was the value of the property so transferred, or received by said Oliver, or any one for him or his estate, and set forth a copy of what entries are found in the books or papers of Robert Oliver, in the hands of his executors, relating thereto.

HENRY WINTER DAVIS.

Afterwards, to wit, on the twelfth day of May, in the year of our Lord one thousand eight hundred and fifty-one, the said Charles Oliver and Robert M. Gibbs, executors as aforesaid, by their solicitor aforesaid,

filed in the circuit court here their answer to the additional interrogatory aforesaid, in the words and of the tenor following, to wit:

In the circuit court. In equity.

JOHN DEACON
vs.
OLIVER'S ex'rs.

Answer to the 9th interrogatory.

To the honorable the judges of the circuit court of the United States, for the fourth circuit and district of Maryland.

The answer of Robert M. Gibbes and Charles Oliver to the ninth interrogatory filed in this cause, on the 5th day of May, in the year of our Lord, 1851.

They do not know and have no information as to the amount of Goodwin's claim on Mervin, mentioned in the assignment of 30th May, 1829, except so far as the draft for $2,000, spoken of in their answer to the 7th interrogatory, shows that Goodwin assumed that amount to be in Mervin's hands; and except also so far as the settlement to be hereinafter detailed may warrant the supposition that there was a further amount of $3,850 62½ due by Mervin to Goodwin.

The claim on Mervin was never settled by him, nor did he ever make any admissions or promises in regard to it, so far as they know, or are informed and believe. These respondents believe that it was in point of fact settled in 1830 by representatives of the mercantile house of Antonio De Frias and Company, as is hereinafter stated, though the settlement does not name Mervin.

On or about the 30th April, A. D. 1830, Mr. Oliver, (being at that time owner of the rest of it,) received a conveyance of ⅔ths (two-sixths) of the Santa Amelia plantation and appurtenances in the island of Cuba, from Cornelius Souchay and the representatives of Antonio De Frias, deceased, (the said Cornelius and Antonio having been members of the aforenamed firm of De Frias and Company, of Havana,) in full settlement of a debt of $25,919, due to Mr. Oliver on the firms, two notes in his favor, amounting to that sum, with interest, and also in full of a claim on the same firm for $5,850 62½ of Lyde Goodwin's, the whole amounting at the time of settlement to the sum of $36,060 25 (thirty-six thousand and sixty dollars [and] twenty-five cents,) including the interest for demurrage.

These respondents are informed and believe that Mr. Oliver, in 1821, directed De Frias and Company to lay an attachment upon Goodwin's property for the advances which he had made to Goodwin in 1819 and 1820, as set forth in the answer to a preceding interrogatory; but that they never informed him whether they had done so or not; and it was only after he had instituted suit against Souchay and the representatives of De Frias for the amount of the two notes above mentioned of De Frias and Company, that they acknowledged their

liability, not only for the amount of those notes, but for the further amount of $5,850 62½, (five thousand eight hundred and fifty dollars sixty-two and [a] half cents,) and settled both claims by the aforesaid conveyance. These respondents, knowing of no property of Goodwin in Cuba but what he alleged to be in Mervin's case, and being informed that De Frias & Company had funds of Mervin in their hands or under their control, believe that the said item of $5,850 62½ is for the Mervin claim ; but they repeat that, with the exception of Goodwin's assignment of 30th May, 1829, he made no assignment of his claim on Mervin to Mr. Oliver, so far as they know or are informed and believe ; unless the draft for $2,000, already mentioned, may be deemed such to that extent. What the value of the one-third of the Santa Amelia plantation was at the time of its conveyance to Mr. Oliver by Souchay and De Frias's heirs, these respondents have no means of stating. In the year 1826, Mr. Oliver, when reluctantly authorizing his agent to take this interest, if he could do no better, in satisfaction of his advances for De Frias & Company, amounting to $25,919, as already mentioned, stated his belief that the said third was not worth more than $20,000. On the 30th June, A. D. 1836, Mr. Oliver's representatives sold the whole plantation and appurtenances to George Knight for $108,000, of which upwards of $19,000 is still due, and on that day the whole cost of the plantation to him and his estate, after crediting all that had been received from it, was $171,479 80 ; which sum includes the $36,060 25, above mentioned.

REVERDY JOHNSON,
J. M. CAMPBELL,
Solicitors for defendants.
R. M. GIBBES, *Executor.*

STATE OF NEW YORK,
City of New York, to wit :

Be it remembered, and it is hereby certified, that on this seventh day of May, in the year of our Lord 1851, before me, the subscriber, a commissioner appointed by the circuit court of the United States in and for the second circuit and southern district of New York, to take affidavits, &c., personally appeared Robert M. Gibbes, esq., and made oath, on the holy evangely of Almighty God, that the matters and things stated in the foregoing answer are true to the best of his knowledge, information, and belief ; as witness my hand and seal, at said city, on the day and year above written.

JOHN W. NELSON, [SEAL.]
U. S. Commissioner.

UNITED STATES OF AMERICA,
Southern district of New York, ss.

I, John W. Nelson, clerk of the circuit court of the United States of America, for the southern district of New York, second circuit, do

hereby certify that I am well acquainted with the handwriting of J. W. Nelson, whose name is subscribed to the annexed answer and attestation, and that the signature to the same is in his proper handwriting. And I do further certify that he was, at the time of signing the same, a United States' commissioner, duly appointed by the circuit court of the United States of America for the southern district.

In testimony whereof, I have hereunto subscribed my name, and affix the seal of the said circuit court, this 7th day of May, in [SEAL.] the year of our Lord one thousand eight hundred and fifty-one, and of the independence of the United States the seventy-fifth.

J. W. NELSON, *Clerk.*

Afterwards, to wit, on the seventh day of July, in the year of our Lord one thousand eight hundred and fifty one, the parties aforesaid, by their solicitors aforesaid, filed in the circuit court here an agreement in the words following, to wit:

Agreement.

In the circuit court of the United States for the district of Maryland.

JOHN DEACON
vs.
OLIVER'S executors.

It is agreed between the complainant and defendants that, at the hearing of said cause, the complainant may read in evidence to the court from the printed record of the appeal of George M. Gill, trustee for the creditors of Lyde Goodwin, against Robert Oliver's executors and others, in the bill referred to, the following parts of the said record, that is to say, the first petition of said George M. Gill against John Glenn and David M. Perine, and the said executors of Robert Oliver, upon pages 32, 33, 34 of said record, and the answers of said Glenn and Perine thereto upon pages 55, 56, 57, 58 of said record, and the answers of Oliver's executors thereto upon page 58 of said record.

And also the second petition of said Gill against the same parties upon pages 36, 37, 38 of said record, and the answer thereto of said Glenn and Perine upon pages 41, 42, 43, 44, 45, and the answer of Oliver's executors thereto on page 55 of said record.

And also the decree of the county court of Baltimore upon said petitions, upon pages 234, 235 of said record, and the decree of the court of appeals of Maryland upon pages 304, 305 of said record—with the same force and effect as if the whole record whereof they are parts were produced to the court properly authenticated, and with none other effect. And that the complainant may read from said printed record the following documents: The assignment of George J. Brown to Robert Oliver, the defendant's testator, dated 21st March, 1825,

referred to in the answer of Glenn and Perine to the first petition, and found on page 112 of said record; also the assignment of L. Goodwin to Robert Oliver, dated Baltimore, 30th May, 1829, with said Oliver's confirmation thereof, at the foot, found on page 113 of said record, and in the said answer referred to by Glenn and Perine; also the two receipts of Lyde Goodwin to Robert Oliver for $500 each, dated respectively the 15th February, 1825, and 24th March, 1825, found on page 167 of said record; also the letter of Lyde Goodwin to Robert Oliver, dated January 11th, 1825, and found on pages 167, 168, of said record; also the four checks of Robert Oliver in favor of Lyde Goodwin for $500 each, dated respectively 15th February, 1825, 24th March, 1825, 13th April, 1825, 1st June, 1825; also the award of the commission to adjust the claims of American citizens on the Republic of Mexico, found on pages 99, 101, of said record; also the leger book of the Mexican Company of Baltimore, with all the accounts, entries, documents, and letters, and the acknowledgments and engagements of Gen. Xavier Mina therein contained, as found in said record from page 244 to page 304 thereof, both inclusive; also the deed of trust from R. M. Gibbes, Charles Oliver, executors of Robert Oliver, and others, members, or assignees of members, of the Mexican Company of Baltimore, to John Glenn and David M. Perine, dated 8th May, 1841, found on pages 23 and 24 of said record, with the same force and effect as if the originals of the said documents were produced and formally proved respectively; it being agreed that all said documents were produced and proved in said suit by and on behalf of the said executors of Robert Oliver.

It is further agreed that the said executors of Oliver, through their attorney, produced and filed in support of their claim against the Republic of Mexico, for supplies furnished by the Mexican Company of Baltimore to Gen. Mina for the use of that Republic, before the board of commission to adjust the claims of American citizens on the Republic of Mexico, whose award on said claim is above referred to at pages 99–101 of the printed record, the following documents, with the memoranda and endorsements thereon, copies whereof are herewith filed and marked as hereinafter designated, that is to say—

A. A paper marked No. 1, "Robert Oliver's claim," with the endorsement, being a list of documents.

B. A paper marked "No. 4, Robert Oliver's claim, explanation to facilitate the examination of the accounts.

C. A paper marked "No. 5, Robert Oliver's claim, explanation to facilitate the examination of proofs."

D. An explanation relative to the loss of the "original accounts, making up the sum of $160,563 72, claimed *claimed* by the Mexican Company of Baltimore."

E. Paper marked No. 11, being a decree of the Congress of Mexico, with the memoranda and endorsement thereon; which decree was passed 19th July, 1823.

F. A paper marked "No. 12, Robert Oliver's claim;" the decree of the Mexican Congress, passed 28th June, 1824, with the endorsement thereon and memoranda thereon.

G. A letter from Robert Oliver to the hon. J. R. Poinsett, dated Baltimore, January 30, 1826, on the same sheet with the letter of D. A. Smith to said J. R. Poinsett, marked No. 35."

H. A letter from Robert Oliver to Colonel Butler, chargé d'affaires of United States of America at Mexico, dated 17th September, 1831, containing on same sheet a draft of a letter from said Oliver to said Butler, dated 30th August, 1831, which sheet enclosed the receipt of Lewis Brantz, dated 6th December, 1831, and is endorsed "Letter, Robert Oliver, authorizing delivery of his claim into the hands of Mr. Brantz, and containing Mr. Brantz's receipt for the same, September 17th, 1831;" also a letter from Robert Oliver to Daniel Brent, dated Baltimore, 17th September, 1831, with the endorsement; also a letter of Robert Oliver to Colonel Brent, chargé, &c., dated 8th April, 1833; also a letter from Abraham Miller, attorney of Robert Oliver, to Lewis Brantz, dated 17th July, 1833; also a letter from Daniel Brent to Anthony Butler, chargé, &c., dated 27th September, 1831; all which letters and papers are copied on paper H, accompanying this agreement.

I. A manuscript copy of the leger book of the Mexican Company of Baltimore, contained in the printed record from page 244 to 299, both inclusive, to end of letter of July 15, 1822, to D. A. Smith and General James Wilkinson, with the endorsement set forth on paper I, herewith filed.

And the power of attorney from John Sullivan and George Winchester, and others, members or assignees of the Mexican Company of Baltimore, to Robert Oliver, dated 22d of March, 1825, and the power of attorney from Robert Oliver to John Mason, jr., and Dennis A. Smith, dated 24th day of March, 1825, on the same sheet with, and at the foot of, the power from said company to Robert Oliver of March 22d, 1825, which are both set forth on pages 156, 157, 158, of the printed record. All which papers, it is agreed, the complainant may read at the hearing of this cause, with the same effect as if the originals of said documents, papers, and letters were produced from the records of said board of commission, and proved to be respectively *to be* what they severally purport to be, with the endorsement or memoranda thereon.

It is further agreed, that the complainant may read so much of the deposition of Lyde Goodwin from the printed record on pages 107, 108, as relates to leger book of the Mexican company above mentioned, comprising the first paragraph of said deposition, as if taken in this cause.

It is also agreed complainant may read the extracts contained in paper K from the petition filed before the *the* board of commission aforesaid, on behalf of said Robert Oliver and said Mexican company

for the claim in the said award mentioned, with the same effect as if the said petition in full were produced and properly authenticated.

It is further agreed, the complainant may read the assignment of George Winchester to Robert Oliver, dated Baltimore, 2d April, 1825, of the shares of James Williams and John Gooding, under which said Oliver claimed and received the proceeds of said shares, with the same effect as if the originals were produced and duly proved; also the receipt of George Winchester for the purchase money paid for said assignment; all which are found on pages 80 and 81 of said record.

It is also agreed that all the plaintiffs in the attachment, in the proceedings mentioned, are dead, except John Deacon, the complainant in this suit.

It is further agreed that the defendants may read the papers and evidence specified in paper L, endorsed "defendants' proof," and that complainant may read the deposition of John Nelson, on page 141 of said record, subject to exception as to the competency of the contents of said papers and depositions, respectively.

It is agreed that complainant may read the statement of B. C. Howard in paper M, with the same effect as if made on examination and under a commission, subject to exceptions as to competency of the matter contained.

HENRY WINTER DAVIS,
REVERDY JOHNSON,
J. M. CAMPBELL,
For Oliver's executors.

Paper A.

Paper A, referred to in the above agreement, with the following endorsement thereon:

No. 1. Robert Oliver's claim, April .

A list of documents in English and Spanish, numbered from 1 to , exclusive of that contained in the leger and stitched books, April 28th, 1841; submitted at the sitting of the board of this day; Spanish text taken by the Mexican commissioner.

A.

A list of the documents in English and Spanish, appertaining to the claim of the estate of Robert Oliver, late of Baltimore, deceased, and sundry individuals and firms on the Mexican Government, exclusive of those contained in the leger; the remaining papers that are not in both languages will be translated if such should be the pleasure of the board, or any of the members.

No. 1. This list.
2. The memorial.
3. The account.
4. Explanation to facilitate the examination of the account.
5. Do. do. do. the proofs.

6. Certified account of the Mexican Company of Baltimore, taken to Mexico in 1822, by Dennis A. Smith, dated 15th July, 1822.

7. Power of attorney from the company by name to Dennis A. Smith and General James Wilkinson, to recover the claim, 15th July, 1822.

8. Copy of a letter from Wm. Brent, chief clerk in the State Department, to Colonel Butler, chargé in Mexico, on the subject of the claim, 27th September, 1831.

9. Do. do. do. 12th October, 1832.

10. Do. from F. P. Martinez, minister from Mexico, to John Forsyth, secretary of state, 18th November, 1837.

11. Decree of the Congress of Mexico respecting the "benemeritos" in "the heroic grade," of whom General Mina was one, 19th June, 1823.

12. Decree of the Congress of Mexico recognising the debts contracted by the "benemeritos" as good against the nation, 28th June, 1824.

13. Copy of a letter from L. Goodwin to J. Q. Adams, secretary of state, 23d June, 1824, with L. Goodwin's deposition, dated Baltimore, 20th March, 1841.

14. Deposition of D. Mier, filed in the claim of A. L. Duncan, now before the board and transcribed for our use, 9th January, 1824.

15. Decree of the Mexican Congress granting him a pension, 23d Dec., 1824.

16. Petition presented by one of the memorialists in 1834, to the Mexican Congress on the subject, with the reply, 16th April, 1834.

17. Certificate of Peter Carson respecting the sale of the brig Calypso, given him by Capt. Boyle, 5th February, 1817.

18. Instructions from D. A. Smith to Captain Boyle, 26th September, 1816.

19. A letter from Wm. Duane to D. A. Smith, 24th Aug., 1822.

20. Do. from Dr. Mier to same, 3d July, 1821.

List continued.

21. A letter from Santa Maria and Montello to D. A. Smith, 23d Nov., 1816.

22. A letter from General Mina to same, 24th Oct., 1816.

23. A letter from the same to the same, 18th Nov., 1816.

24. A letter from the same to the same, 2d Dec., 1816.

25. A letter from the same to the same, 24th Jan'y, 1817.

26. A letter from the same to the same, 27th Sept., 1816.

27. A letter from the same to Capt. Boyle, without date.

28. A letter from the same to the same, 11th Dec., 1816.

29. A letter from the same to supreme government, 7th Sept., 1816.

30. A letter from Dennis A. Smith to Dr. Mier, 10th March, 1823.

31. Deposition of Capt. Boyle respecting the expedition and Dennis A. Smith's services in the cause of independence, 19th March, 1825.

32. Depositions taken in Mexico to authenticate the account of Dennis A. Smith, by proving the signatures of Maria, &c., &c., 20th June, 1825.

33. Petition of Dennis A. Smith to the Mexican Government for a payment or acknowledgment of his claim, 22d June, 1825.

34. The account of Dennis A. Smith against the Mexican Government, accompanying the above with 9 years' interest, 22d June, 1825.

35. A letter from Dennis A. Smith to J. R. Poinsett, 30th Jan'y, 1826.

A letter from Robert Oliver to same, in one, 30th Jan'y, 1826.

36. Petition of J. S. Wilcocks to the Mexican Government, for a settlement of the company's account, $160,563 72, , 1823.

37. Voucher to support charge No. 7 of the account.

38.	Do.	8	do.
39.	Do.	9	do.
40.	Do.	10	do.
41.	Do.	11	do.
42.	Do.	12	do.
43.	Do.	13	do.
44.	Do.	14	do.
45.	Do.	15	do.
46.	Do.	16	do.
47.	Do.	17	do.

OFFICE OF THE BOARD OF COMMISSION,
Washington, D. C.

I, the undersigned, clerk of the board of commission to adjust the claims of American citizens on the Republic of Mexico, hereby certify, that the foregoing paper, with the endorsement, is truly copied from the original document filed by the executors of Robert Oliver, before said commission, in support of their claim against the Republic of Mexico, for supplies furnished by the Mexican Company of Baltimore to General Mina, for the use of that Republic in 1816.

Witness my hand this 15th day of April, 1851.

T. J. BARNETT, *Clerk*.

Paper B.

Paper B, referred to in the foregoing agreement. (Endorsement thereon.)

No. 4. Robert Oliver's claim.

Explanation to facilitate the examination of the account B.

Explanation.

To facilitate the examination of the account now presented by me, beg leave to refer the honorable board to the following books in its possession, from which the items composing the account were taken, viz:

No. 1. The identical leger of the transactions of the Mexican Company of Baltimore, containing the accounts of the individual members as well as the accounts of the expedition. Those of the expedition as *as* follows:

From page 12 to 16, the invoice of the Calypso's cargo, marked in the account now presented, A.

At page 38, an account of the disbursements for the schooner Felen Cubana, B.

At page 38, an account of sundry articles furnished by Dennis A. Smith, independently of his interest of ($\frac{2}{3}$) in the company, C.

At page 40, an account of the disbursements for the ship Caledonia, D.

At page 41, an account of moneys advanced to General Mina, at different times and places, for the use of the expedition, E.

All these accounts are dated Baltimore, 25th Sept., 1816, and are signed by Gen. Mina, in his own proper handwriting, as acknowledging the receipt of the effects and money, and ratifying the advance contracted for and appearing on the face of the accounts; being the mercantile profit agreed upon at Baltimore, instead of the cost in Mexico, as would have been the case had the goods been sent there to a market.

No. 20. A stitched book, containing Gen. Mina's promissory note to pay Dennis A. Smith $50,000 for the brig Calypso and outfits, at Matagorda, or when he can; with a recommendatory letter from Gen. Mina to the Mexican Government, &c.

No. 21. A stitched book, containing in regular succession the several items appearing in the account in continuation after the above sum of $50,000, with proofs, translations, &c.

N. B. Nos. 20 and 21 have been taken to pieces and added to the separate documents in their respective languages; forming No. 137 to '47 of the list, being vouchers for the account.

OFFICE OF THE BOARD OF COMMISSION,
Washington, D. C.

I, the undersigned, clerk of the board of commission to adjust the claims of American citizens on the Republic of Mexico, hereby certify, that the foregoing paper with the endorsement is truly copied from the original document filed by the executors of Robert Oliver before said commission, in support of their claim against the Republic of Mexico, for supplies furnished by the Mexican Company of Baltimore to Gen. Mina, for the use of that Republic in 1816.

Witness my hand this 15th day of April, 1851.

T. J. BARNETT, *Clerk.*

Paper C.

(Paper C,) referred to in the agreement. Endorsement thereon.

No. 5. Robert Oliver's claim.

Explanation to facilitate the examination of proofs, C.

No. 5. Robert Oliver's claim. Explanation to facilitate the examination of proofs.

Explanation.

To facilitate the examination of proofs; that the accounts are correct; that the articles charged were for the use of the expedition; and that they, as well as the brig, were delivered to Mina at Galveston; that nothing has ever been received in payment; that the signatures of Mina appearing on the documents are genuine; and the great devotion of Dennis A. Smith to the cause of Mexican independence.

For the correctness of the accounts, the shipment of the cargo and disbursement at Baltimore, and that all were for the use of Mina and the expedition, we refer to the oaths of Lyde Goodwin and George Monk, the former the secretary and the latter the clerk of the company. See their affidavits at the conclusion of the leger, and likewise in No. 4.

For the delivery of the brig and her cargo to Gen. Mina at Galveston, we refer to the oath of Captain Boyle in the same No. 4.

That no money, goods, or effects were received on account of these advances at Baltimore, the absence of all credits on the leger proves; as likewise the oath of Lyde Goodwin above mentioned in No. 4. Doctor Mier likewise proves the same thing in his affidavit in No. 21, at page 35.

For proof of the signatures of Mina, besides the presumptive evidence, arising from the similarity and great uniformity of all of them, and of the (rubrica or) flourish we refer to the affidavits of Lyde Goodwin and George Monk, above alluded to, who witnessed the writing of those attached to the accounts in the leger, and to the affidavits in Nos. 20 and 21 of Santa Maria, (the minister to Mexico from Columbia,) D. Stewart, A. Camplido, A. Yhary, Charles Book, and Doctor Mier, who all either accompanied him in the expedition or were in his service at Baltimore. They all swear to his handwriting, to them well known, and was taken by order of the authorities in Mexico, at the instance of Dennis A. Smith.

For the great devotion of D. A. Smith to the cause of Mexico, and the great services rendered to their cause, we refer to the various letters of Mina, particularly to his of the 7th of September, 1816; to the depositions of Allen Yhary, Doctor Mier, and Santa Maria, found in No. 21, pages 34, 35, 36. To the of Wm. Duane; to the deposition of Captain Boyle, and to the letter aforesaid of Dr. Mier, who was decreed a pension of $3,000 per annum for his revolutionary services; all these gentlemen certify to the great zeal and attachment of D. A. Smith to the cause of Mexican independence; were at a time when to many it appeared utterly hopeless.

OFFICE OF THE BOARD OF COMMISSION, &C.,
Washington, D. C.

I, the undersigned, clerk of the board of commission to adjust the

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claims of American citizens on the Republic of Mexico, do hereby certify, that the foregoing paper is a true copy of the original document filed by the executors of Robert Oliver before said commission in support of their claim against the Republic of Mexico for supplies furnished by the Mexican company of Baltimore to General Mina, for the use of that Republic in 1816.

Witness my hand this 15th day of April, 1816.

T. J. BARNETT, *Clerk*.

Paper D.

Paper D, referred to in the agreement.

Endorsed thereon—Explanations to facilitate the examination of the proofs.

With respect to the loss of the original accounts, making up the sum of $160,563 72 claimed by the Mexican Company of Baltimore, it may be useful to offer the following explanation:

These accounts were given to Captain Boyle, of the Calypso, when the expedition sailed from Baltimore, being the same of which those in the leger are duplicates. It appears, however, that they were lost or mislaid, and never came back into the possession of L. Goodwin, the secretary, to whom they would have been returned if in existence. This he has proven by his affidavit of May, 1841, now before the board. The loss of these accounts was known and lamented when Dennis A. Smith, in 1822, went to Mexico with a power of attorney from the company to him and General Wilkinson, then in Mexico.

For this reason a copy of the accounts taken from the leger, certified and attested by L. Goodwin, secretary, and George Monk, his clerk, was given to Smith to take with him in lieu of the originals. Nothing was done by Smith and Wilkinson in 1822, except having his own accounts, which were then distinct, verified in due form of law in Mexico by proving the signatures of Mina, &c., and having the accounts of the company translated into Spanish. All were then left with General Wilkinson in the form in which they were. Again, in 1825, when D. A. Smith and Mr. Mason went as agents for the company to Mexico, another copy of the accounts taken from the leger was prepared as before, and given to them with the same attestations. After their arrival in Mexico it appears that Mr. Mason wrote to L. Goodwin that, inasmuch as the accounts brought with him purported to be copies of originals signed by Mina, he recommended that in lieu of the originals, which he knew had been lost, the leger itself should be sent to him in Mexico, which he knew contained the duplicates of those original accounts. That was done, and the same leger is now in possession of the board, having been sent by Mr. Ellis to the State Department from Mexico, where it had remained from the time of Mr. Mason. In this leger are two letters which go to corroborate the opinion that *that* the papers were lost at New Orleans. One of these letters is from the com-

pany by name to Dorsey and McLanahan, merchants of New Orleans, constituting them agents for trying to recover the money from General Mina. In this letter, dated the 10th April, 1817, they are instructed to receive from Captain Boyle, then in New Orleans, the original invoices, &c., in his possession; and on the same day Lyde Goodwin and D. A Smith wrote to Captain Boyle informing him that he may return home after delivering to Dorsey and McLanahan the original receipts, &c.

Since that time these papers have never been found, and the company thinking themselves secure by the precaution taken by their secretary in having the copies in the leger converted into duplicates by the signatures of Mina, did not probably so much regret the loss of the originals, since they relied on the accounts in the leger in their present form for proof of the debt.

They regretted the necessity of sending the leger to Mexico, and thus putting to hazard the existence of this conclusive proof of the justice of their claim. As to the proof of the accounts it is to be observed, that besides the signatures of Mina, the genuineness of which cannot be doubted, the accounts are likewise in the same way that book accounts are commonly proven, that is, by the oath of the clerks. For at the conclusion of the leger, (page 73,) are the oaths of L. Goodwin and of George Monk, the latter the clerk of the former, and both may, with propriety, be considered the clerks of the company. Both of these gentlemen swear to the truth of every thing contained in the book, the accuracy of the accounts, and particularly to the signatures of Mina, which were all made in their presence.

OFFICE OF THE BOARD OF COMMISSION, &C.,
Washington, D. C.

I, the undersigned, clerk of the board of commission to adjust the claims of American citizens on the Republic of Mexico, hereby certify, that the foregoing paper is a true copy of the original document filed by the executors of Robert Oliver before said commission in support of their claim against the Republic of Mexico, for supplies furnished by the Mexican Company of Baltimore to General Mina for the use of that Republic in 1816.

Witness my hand this 15th day of April, 1851.

T. J. BARNETT, *Clerk.*

Paper E.

Paper E, referred to in the agreement.

Thereon endorsed—Copy No. 11; Robert Oliver's claim; decree of the Congress of Mexico respecting the benemeritos of the heroic grade, among whom is found General Francisco Xavier Mina.

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Copy.—Decree of the 19th of July, 1823.

Declaration in honor of the first heroes, liberators of the nation, and those that come after them.

The sovereign Mexican Congress, which has never viewed with indifference the sacrifices that good patriots have made at all periods for the nation, in order to sustain its independence and liberty, has seen fit to decree:

Article 13. Congress declares to be benemeritos de la patria, in the heroic grade, Miguel Hidalgo Ignacio Allen, de Juan Aldama, Mariano Absolo, Jose Maria Morelos, Mariano Matamores Leonardo, and Miguel Bravos Hermenegildo Galiana, Jose Mariano Jimenez, Francisco Xavier Mina, Pedro Moreno y Victor Rosales, their parents, wives, and sons, as likewise the sisters of Alendo Morales, Hidalgo and Matemoras, shall enjoy the pension which the supreme executive power will assign them, in conformity with the extraordinary services those persons rendered; observing the order of preference pointed out in the 10th article.

Article 14. And whereas the honor of the country requires that we should repair the indignity offered to the ashes of those heroes who consecrated their lives to its defence, the remains of those who are benemeritos in the heroic grade, pointed out in the foregoing article, shall be disinterred and deposited in a box, which shall be brought to this capital, and the key placed for safe-keeping among the archives of Congress.

Article 15. The ground where those victims were sacrificed shall be enclosed with railing, and adorned with trees, and in the centre thereof shall be raised a plain pyramid, which shall record to posterity the names of their first liberators.

Article 16. The municipalities, respectively, under the inspection of the provincial deputations, will attend to the fulfilment of what is ordered in the foregoing article; drawing for the expenses thereof on the funds of "propio and arbitrios."

Article 17. The municipality of Cautla Amilpas, under the inspection of that of Mexico, shall cause to be erected in the principal public square a column to commemorate the remarkable spot.

18th. The box that encloses the venerable remains of the heroes above mentioned, shall be brought to this cathedral, the 17th of next September, with all the publicity and pomp worthy of so solemn an act; in which place shall be celebrated a solemn function for the dead, with a funeral oration.

19. A deputation from the Congress shall authorize the transfer of the remains.

20. The supreme executive power, the provincial deputation, the municipality, the staff of the army, and all the ecclesiastical, military, and political authorities, residing in this capital, shall assist in solemnizing this act.

21. The troops of the garrison will perform the honors which the ordinance decrees to be paid to captains general commanding-in-chief, and who die at their post.

22. In the cathedral shall be raised a sepulchre, on which shall be deposited the box, with an inscription to be proposed by the university and approved by the government.

23. The committee of Congress shall take the key, and deliver it to Congress in a public session.

24. The President shall announce that the nation has resolved, through its representatives, that the names of those heroes who sacrificed themselves for national independence and liberty, shall be written in letters of gold in the Hall of the House of Representatives.

I certify that the above is a literal copy of a paper on file among the records of this office, bearing the following endorsement: ("No. 11.) Robert Oliver's claim; decree of the Congress of Mexico, respecting the 'benemeritos' of the heroic grade; among [whom] is found Gen. Francisco Xavier Mina."

EDWARD WM. JOHNSON,
Secretary to the commission on claims, under treaty of Guadaloupe Hidalgo.

Washington city, 11th March, 1851.

Paper F.

Paper F, referred to in the agreement.

(Endorsed:) Copy, No. 12. Robert Oliver's claim; decree of 28th June, 1824; acknowledgment of debts.

The second article declares all such debts to be good against the nation, as having been contracted for its service by generals declared to be benemeritos de la patria.

(*Copy.*)—*Decree of the 28th of June*, 1824.

Acknowledgment of debts.

The sovereign general constituent Congress of the United States of Mexico, desirous of giving evidence of their regard for the public faith, and of their rigorous observance of the principles of *of* justice, in order to adjust and secure the national credit upon a solid basis, has seen fit to decree—

1. The debts contracted in the Mexican nation by the governments of the viceroys, up to the 17th September, 1810, are acknowledged.

2.* Those are credits against the nation, all such debts as may be proven to have been contracted for its service by the governments recognised in the law of premiums, and by the generals declared benemeritos de la patria.

3. The nation acknowledges the debts contracted in it with Mexicans, by the government of the viceroys, from 17th September, 1810,

up to the time of the entrance of the army of the "three guarantees" into the capital; provided, always, that they are proven not to have been voluntary.

4. The nation likewise acknowledges the debts which were contracted for its service, as well by the independent chiefs, from the time of the grito iguala up to its entrance into this capital, as also those contracted by the chiefs of the liberating army, up to the time of the occupation of this capital.

5. Finally, all those debts are acknowledged which were contracted by the governments established from the time of the first epoch mentioned in the foregoing article.

*Remark.—As No. 2 is the article appertaining to our case, and relied on by us to prove the assumption, by the Mexican Congress, of the debts contracted by General Mina, we have thought it most proper to give a literal translation of it, as near as it could be done; we now give a more liberal one of the same import, as follows: "The debts that may be proven to have been contracted for the service of the nation, by the governments recognised in the law of premiums," and by the generals declared "benemeritos de la patria," are hereby acknowledged to be good against the nation, (or national.)

I certify the above to be a literal copy of a paper filed among the records of this office, and bearing the following endorsement: "(No. 12.) Robert Oliver's claim; decree of 28th June, 1824; acknowledgment of debts. The second article declares all such debts to be good against the nation, as have been contracted for its service by Generals declared Benemeritos de la patria.

EDWARD WM. JOHNSON,
Secretary to the Commission on Claims, under treaty of Guadaloupe Hidalgo.

Washington, 11th March, 1851.

Paper G.

Paper G, referred to in the agreement.

(Endorsed thereon:) No. 35. Oliver to Poinsett, 30th January, 1826. No. 35.

To the honorable J. R. POINSETT, *Mexico.*

SIR: I have this day assigned to Robert Oliver, esq., my half of the claim on the Mexican government, for Mina's expedition, and I have to request of you to have the same funded in his name, or in such manner as he may direct.

I have the honor to be, respectfully, your ob't serv't,

D. A. SMITH.

Baltimore, January 30, 1826.

MY DEAR SIR: You will see by the above letter, that Mr. Dennis A. Smith has assigned to me his interest in the claim on the Mexican Government, for advances to General Mina, and I request you will

have the goodness to instruct Mr. Mason to take the necessary steps to secure it for me.

I have already informed you that I intend to sell my interest in this claim as soon as possible, and I request you will endeavor to procure for me saleable stock, or such as can be readily converted into money or good bills, on this country or on Europe.

I beg leave to refer you to my letter of the 10th ult., and have only to add that, I am, very sincerely, yours, ROBERT OLIVER.

OFFICE OF THE BOARD OF COMMISSION, &c.,
Washington, D. C.

I, the undersigned, clerk of the board of commission to adjust the claims of American citizens on the Republic of Mexico, hereby certify that the above paper is truly copied from the original document, filed by the executors of Robert Oliver, before said commission, in support of their claim against the Republic of Mexico, for supplies furnished by the Mexican Company of Baltimore to General Mina, for the use of that Republic, in 1816.

Witness my hand, this 15th day of April, 1851.

T. J. BARNETT, *Clerk.*

Paper H.

Paper H, referred to in the agreement.

Endorsed thereon: H. Copies of letters.

No. 1.

BALTIMORE, 30*th August*, 1831.

SIR: I am favored with your letter of the 27th June, by which I am sorry to observe that Mr. Mason omitted to give you any information relative to my claim on the Government of Mexico.

I have now to request you will open the package he left in your hands, which I presume contains the necessary information in relation thereto. I am, very truly, your obed't serv't,

(Copy.)

To Colonel BUTLER,
Charge des affaires United States of America, Mexico.

(On the other side of the same sheet is the following letter:)

No. 2.

BALTIMORE, 17*th September*, 1831.

SIR: Annexed is duplicate of my last respects, dated the 30th ultimo, since which I have had an arrangement with the bearer, Mr. Lewis Brantz, relative to my claim of the Mexican Government, and I have now to request you will assist him to procure a settlement of them.

I am, very truly, your obed't serv't, ROBERT OLIVER.

Addressed to BUTLER, esq.,
Charge des affaires United States of America, Mexico.

2590.

Captain BRANTZ.

(Endorsed:) Letter Robert Oliver, authorizing the delivery of his claim into the hands of Mr. Brantz, and containing Mr. Brantz's receipt for the same, Sept. 17, 1831.

3.

(The receipt enclosed follows.)

Received from Col. Anthony Butler, a packet of papers, containing a book of accounts and other documents relative to the claim of Robert Oliver, of Baltimore, and others, against the Mexican Government, being the same papers delivered to the said Colonel Butler by John Mason, jr., formerly secretary of legation to this mission.

Mexico, 6th December, 1831.

LEWIS BRANTZ.

No. 4.

BALTIMORE, 17*th September*, 1831.

DEAR SIR: When Mr. John Mason was about to leave Mexico, he placed in the hands of our representative, Mr. Butler, a package containing papers belonging to me, relating to claim on the Mexican Government.

You will see by the enclosed letter, lately received from Mr. Butler, that he had not opened the package, and I have now to request you will instruct him to pay due attention to my claim. I am informed by a gentleman lately arrived from Mexico, that Mr. Butler is disliked by all the Americans, and that he will do nothing without instructions from your department. I have engaged Mr. Lewis Brantz, of this city, who will proceed to New York on Wednesday next, to embark for Vera Cruz, to take charge of my claims on the Mexican Government, and I hope you will send me the letter for Mr. Butler in time to go by Mr. Brantz.

Yours, very truly,

ROBERT OLIVER.

Addressed to DANIEL BRENT, esq.,
Department of State, Washington.

(Endorsed:) Received 18th September, '31; Mr. Oliver's hand; supposed to be private.

No. 5.

BALTIMORE, 8*th April*, 1833.

SIR: I have empowered the bearer, Mr. Abraham Miller, to endeavor to settle all the claims in which I am interested in Mexico, and I request you will deliver to him the papers left in your hands by Mr. Mason belonging to me.

I flatter myself you will give Mr. Miller every assistance in your power, and have only to add that I am, very truly,

Your obedient servant,

ROBERT OLIVER.

Addressed to Col. BUTLER,
Charge des affaires of the U. S. of America, Mexico.

Copy.

No. 6.

CITY OF MEXICO, 27*th July*, 1833.

LEWIS BRANTZ, esq.

SIR: Having arrived in this city as a special agent for the recovery of the claim on the Mexican Government, and having likewise a full power of attorney from Robert Oliver, of Baltimore, to settle all the claims in which he is interested in Mexico, which power was passed at Baltimore on before John Gill, notary public, and certified by C. Tiernan.

I waited on Col. Anthony Butler, charge of the United States of America to the Mexican Government, with a letter from Mr. Oliver for the delivery to me of the papers relative to the said claim, left in his hands by Mr. John Mason, jr., secretary of legation to Mr. Poinsett. The letter from Mr. Oliver is in the following words:

BATIMORE, 8*th April*, 1833.

SIR: I have empowered the bearer, Mr. Abraham Miller, to endeavor to settle all the claims in which I am interested in Mexico, and I request you will deliver to him the papers left in your hands by Mr. John Mason belonging to me. I flatter myself you will give Mr. Miller every assistance in your power, and have only to add that I am, truly,

Your obedient servant,

(Signed) ROBERT OLIVER.

On presenting the letter to Mr. Butler, he remarked that he had already delivered Mr. Oliver's papers to yourself by virtue of a letter or order to that effect from Mr. Oliver. Since you have been so good as to respect what appears to be the desire and intention of Mr. Oliver in regard to the aforesaid papers without animadverting on the apparent inadvertency or inconsistency which I am at present unable to account for, and since you have handed over the said papers to me, it is proper that I should exonerate you, as I now do, by acknowledging to have received from you a packet containing sundry books, documents, and other papers relating to the claim of Robert Oliver, of Baltimore, against the Republic of Mexico, for supplies furnished General Mina and others; also sundry documents relating to similar claims of Thos. Tenant, of Baltimore, which are in the same packet. This receipt is intended to be as full and ample and of the same force and avail as the one given

by you to Mr. Butler, on the delivery of the said papers by him to you. Being for the purposes above mentioned.

From your most obedient servant,

ABRAHAM MILLER,
Attorney for Robert Oliver, Baltimore.

No. 7.

Mr. Brent to Mr. Butler.

DEPARTMENT OF STATE,
Washington, September 27th, 1831.

SIR: Mr. Robert Oliver, of Baltimore, has stated to this Department that he has a claim or claims upon the Mexican Government, the evidences of which were left in your hands by Mr. Mason, the late secretary of our legation to that Government. That these evidences were contained in a sealed packet which [he] had lately understood from you had not been opened, and that you waited his authority and the instructions of this Department to examine their contents, and prosecute the claims which they involve. It is the wish of the Secretary, therefore, that your good offices should be employed in such manner and to such extent as may be proper and useful towards the prosecution of the claim or claims in question to a successful result. In the mean time, I am, respectfully,

Your obedient servant,

(Signed) DANIEL BRENT.

Addressed ANTHONY BUTLER, esq.,
Charge des affaires of the United States to Mexico.

OFFICE OF THE BOARD OF COMMISSION, &c.,
Washington, D. C.

I, the undersigned, clerk of the board of commission to adjust the claims of American citizens on the Republic of Mexico, hereby certify, that the foregoing papers contained upon the seven foregoing annexed pages, are true copies of the original documents filed by the executors of Robert Oliver before said commission in support of their claim against the Republic of Mexico, for supplies furnished by the Mexican Company of Baltimore to General Mina for the use of that Republic, in 1816.

Witness my hand this 15th day of April, 1851.

T. J. BARNETT, *Clk.*

2d H.—H.

(Endorsed thereon.)

BALTIMORE, *22d March*, 1825.

Power of attorney from the Mexican Company of Baltimore to Robert Oliver, and from Robert Oliver to Dennis A. Smith and John Mason, jr., on the 24th March, 1825. H.

(At the foot of the power of attorney from the members of the Mexican company to Robert Oliver, dated 22d March, 1825, is the following:)

Know all men by these presents, that I, Robert Oliver, of Baltimore, attorney, named in the foregoing letter of attorney from John Sullivan and others to me, do hereby substitute and appoint John Mason, jr., esquire, of Georgetown, District of Columbia, and Dennis A. Smith, esquire, of Baltimore, about to proceed to Mexico jointly, and in the event of the decease of either of them, then the survivor of them, attorneys under me, to do and perform all and singular the several acts, matters, and things which I am authorized to do by virtue of said foregoing letter of attorney, and do all lawful acts requisite for effecting the premises, hereby ratifying and confirming all that my said substitutes shall do thereon by virtue thereof. In witness whereof I have hereunto set my hand, and affixed my seal, this 24th day of March, in the year of our Lord one thousand eight hundred and twenty-five.

ROBERT OLIVER. [SEAL.]

Signed, sealed, and delivered in presence of—
ROSWELL L. COLT,
JNO. GILL, *Not. Pub.*

OFFICE OF THE BOARD OF COMMISSION, &C.,
Washington, D. C.

I, the undersigned, clerk of the board of commission to adjust the claims of American citizens on the Republic of Mexico, hereby certify, that the foregoing paper, with the endorsement, is truly copied from the original document filed by the executors of Robert Oliver before said commission in support of their claim against the Republic of Mexico for supplies furnished by the Mexican Company of Baltimore to Gen'l Mina for the use of said Republic in 1816.

Witness my hand this 15th day of April, 1851.

T. J. BARNETT, *Clk.*

Paper 1.—Paper I, referred to in the agreement.

Endorsement on copy of leger of Mexican company.

BALTIMORE, *22d March*, 1825.

Certified accounts of the Mexican Company of Baltimore against the Mexican Government for the expenses of Gen'l Mina's expedition in the year 1816, $\$160{,}563\frac{72}{100}$.

N. B.—These are the accounts taken to Mexico in 1825 by Dennis A. Smith when he and J. Mason, jr., were appointed agents by Robert Oliver. (See their power of attorney dated 24th March, 1825.) They are exact copies of those in the leger and those of the 15th July, 1822, (No. 6 of our list.) The oath of Capt. Boyle at page 4 is referred to in No. 5 of our list, and translated herein.

OFFICE OF THE BOARD OF COMMISSION, &c.,
Washington, D. C.

I, the undersigned, clerk of the board of commission to adjust the claims of American citizens on the Republic of Mexico, hereby certify, that the foregoing paper is a true copy of the endorsement upon an account filed by the executors of Robert Oliver before the said commission, in support of their claim against the Republic of Mexico, for supplies furnished by the Mexican Company of Baltimore to Gen'l Mina for the use of that Republic in 1816.

Witness my hand this 15th day of April, 1851.

T. J. BARNETT, *Clk.*

Paper K.—(*Paper K, referred to in the agreement.*)

"No. 2. Robert Oliver's claim."

"The memorial."

The memorial of John Mason, jr., and Abraham Miller, both citizens of the United States, in behalf of the estate of Robert Oliver, late of Baltimore, deceased, and sundry individuals and firms in said city, owners of a claim on the Government of Mexico, for the outfit and expenses of an expedition in 1816 under the command of General Francisco Xavier Mina, respectfully represents, &c., &c.:

(After a history and statement of the nature of the claim, the memorial states the decree of the Mexican Congress of 1823, and then proceeds:)

P. 38. But this equitable claim is afterwards converted into a legal one of binding force by a decree of the year following, which we have cited. This decree, (28th June, 1824,) so general and comprehensive in its terms, legalizes all that had been done by the chiefs of the revolution, declared "benemeritos de la patria," towards procuring supplies for the use of the nation, and, being without restriction or reservation, nationalizes the debt contracted by Mina for supplies from abroad, *was* effectual a manner as though the debt had been contracted by a native chief of the same rank with citizens of the Republic for supplies from within.

And on p. 42. We present, therefore, the following as the particular and distinct ground on which the claim thus presented to your consideration is sustained by the proofs and documents to which we have referred.

1. As advances made of military stores, arms, &c., &c.

2. The advances were made on the special application of persons in the service of the revolutionary government, &c., &c., &c.

3. If these grounds were at all doubtful, we further contend that the claim is maintained by a national acknowledgment of the most solemn and decisive character. The second article of the decree of the 28th June, 1824, already mentioned, is conclusive upon this subject. It assumes, in the name of the nation, the debts contracted for its use by

General Mina as one of the benemeritos, and this particular claim had before then been brought distinctly and officially to its notice.

Dated, Washington, 26th April, 1841.

Paper L.

Paper L, referred to in the agreement endorsed thereon.

Defendants' proof.

DEACON
vs.
OLIVER'S EXECUTORS.

It is admitted between the parties to this cause, that Robert Oliver died in December, 1834, and Lyde Goodwin in December, 1845.

It is further admitted that Lyde Goodwin, on the 8th May, 1841, made the affidavit which is set out on pages 164, 165, 166 of the printed record in Gill, trustee, Goodwin vs. Glenn & Perine, and others; and that the copy there appearing is a true copy from the original on file in the State Department, and may be read as such on the hearing by the defendants.

It is further agreed, that the defendants may read in evidence at the hearing the several depositions of Dennis A. Smith, on pages 105, 106, 107, and on pages 135, 136, 137, 138, and of John Sullivan, on page 109 of said printed record, as if the same had been taken in this cause.

Paper M.

Paper M, referred to in the agreement.

DEACON
vs.
OLIVER'S EXECUTORS. } M.

The original bill of exchange, upon which the suit was brought in the name of Baring, Brothers & Co. against Lyde Goodwin, was returned by me to Robert Gilmor, deceased, as the agent of the Barings, and is probably mixed up with his papers so as to be unattainable, or is actually lost.

Prior to December term, 1849, of the Supreme Court, U. S., I, as attorney for Baring, had no knowledge of any interest of Goodwin in any claims in Robert Oliver's hands. The facts set forth in the bill of the assignment by Goodwin to Oliver of the claims therein mentioned, by way of security, and the proofs of such assignment and of Goodwin's residuary interest, were discovered by me from the reading of the printed record there referred to for the first time, during the argument of the case of Gill vs. Oliver's executors, in the Supreme Court at December term, 1849; when, for the first time, I, as attorney for the plain-

tiffs in the attachment, obtained notice of the existence of any proofs of Goodwin's residuary interest in the claims in the bill mentioned. The management of the plaintiff's claim has been in my hands exclusively from the time of the original suit.

BENJ. C. HOWARD.

JULY 2, 1851.

Afterwards, to wit, on the fifteenth day of July, in the year of our Lord one thousand eight hundred and fifty-one, the court here made and passed the following decree, to wit:

Decree.

Circuit court of the U. S., April term, 1851.

DEACON
vs.
OLIVER'S EX'RS.

This [cause] came on to be heard at this term and was argued by counsel; and thereupon, upon consideration thereof, it is ordered, adjudged, and decreed, that the bill of the complainant be dismissed with costs to be taxed by the register.

R. B. TANEY,
U. S. HEATH.

From which said decree, so as aforesaid made and passed, the said John Deacon, by his solicitors aforesaid, (in open court here,) prayed an appeal to the Supreme Court of the United States, to be held at the city of Washington on the first Monday in December next, and to him it is granted.

Thereupon it is ordered by the court here that the record and proceedings aforesaid, with all things relating to the same, be transmitted to the said Supreme Court, and the same are hereby transmitted accordingly.

Afterwards, to wit, on the twenty-first day of November, in the year of our Lord one thousand eight hundred and fifty-one, the parties aforesaid, by their solicitors aforesaid, file in court here the following agreement:

Agreement.

In the Supreme Court of the United States.

DEACON
vs.
OLIVER'S EXECUTORS.

It is agreed between the counsel in this cause, that on the hearing in the Supreme Court of the appeal, either party may read from the printed record of either of the appeals taken in the case of Philip E. Thomas and John White vs. Dennis A. Smith and others, from the

court of appeals of Maryland, any document, paper, or evidence forming part of the record of this case, and covered by the agreement heretofore entered into in writing and filed in the cause, with the same effect as if said document, paper, or evidence were transcribed into and printed as part of this record; and that no such document, paper, or evidence shall be copied or printed as part of this record.

Nov. 5, 1851.

HENRY WINTER DAVIS,
For appellant.
J. M. CAMPBELL,
R. JOHNSON, *for appellees.*

Appeal bond.

Know all men by these presents that we, Benjamin C. Howard and George B. Hoffman, are held and firmly bound unto Charles Oliver and Robert M. Gibbs, surviving executors of the testament and last will of Robert Oliver, deceased, in the just and full sum of five hundred dollars, lawful money of the United States, to be paid to the said Charles Oliver and Robert M. Gibbs, their heirs, executors, administrators, or assigns; to which payment, well and truly to be made and done, we hereby bind ourselves, our heirs, executors, or administrators, firmly by these presents. Sealed with our seals, and dated this twenty-ninth day of November, in the year of our Lord one thousand eight hundred and fifty-one.

Whereas, heretofore, to wit, on the sixth day of November, in the year of our Lord one thousand eight hundred and fifty, John Deacon, a subject of the Queen of the United Kingdom of Great Britain and Ireland, and sole survivor of the firm of Baring, Brothers and Company, filed his bill of complaint against Charles Oliver and Robert M. Gibbs, surviving executors of Robert Oliver, deceased, and David M. Perine and John Glenn, trustees of the Mexican Company of Baltimore.

And, whereas, at a circuit court of the United States, for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore on the first Monday in April, in the year of our Lord one thousand eight hundred and fifty-one, by the decree of the same court the said bill of complaint was dismissed with costs; from which said decree, so as aforesaid passed, the said John Deacon, by his solicitor, hath prayed an appeal to the Supreme Court of the United States, to be held at the city of Washington on the first Monday in December next.

Now the condition of the above obligation is such, that if the said John Deacon shall well and truly prosecute with effect his said appeal, and pay unto the said Charles Oliver and Robert M. Gibbs, executors as aforesaid, their executors, administrators, or assigns, their costs and charges decreed to them by the said circuit court, and also all such damages, costs, and charges as may be awarded to them by the said Supreme Court, in case he shall fail to make good his said appeal,

then the above obligation to be void, otherwise to be and remain in full force and virtue.

BENJ'N C. HOWARD, [SEAL.]
GEORGE B. HOFFMAN. [SEAL.]

Signed, sealed, and delivered in presence of—
WM. G. FRISBY,
Witness for me, G. B. Hoffman.

Approved— R. B. TANEY.

The United States of America, to Charles Oliver and Robert M. Gibbs, executors of Robert Oliver, deceased, greeting:

You are cited and admonished to be and appear at a Supreme Court of the United States, to be held at the city of Washington on the first Monday in December next, pursuant to the prayer for an appeal made in open court in the circuit court of the United States, for the fourth circuit, in and for the Maryland district, wherein John Deacon (surviving partner of Baring, Brothers & Co.) is appellant, and you are appellees, to show cause, if any there be, why the decree passed against the said John Deacon should not be reversed, and why speedy justice should not be done to the parties in this behalf.

Witness my hand and seal this 29th day of November, in the year of our Lord one thousand eight hundred and fifty-one.

R. B. TANEY. [SEAL.]

I acknowledge notice of the above citation.

J. M. CAMPBELL,
Solicitor for Oliver's executors.

In testimony that the aforegoing is a true copy taken from the record and proceedings of the circuit court aforesaid, I hereunto subscribe my name, and affix the seal of the said circuit court, [SEAL.] this seventh day of January, in the year of our Lord one thousand eight hundred and fifty-two.

THO. SPICER,
Clerk circuit court.